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RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS CERTIFYING AN ENVIRONMENTAL IMPACT REPORT FOR THE CITY OF MILPITAS NORTH MAIN STREET DEVELOPMENT PROJECT AND ADOPTING RELATED MITIGATION FINDINGS, FINDINGS REGARDING ALTERNATIVES, A STATEMENT OF OVERRIDING CONSIDERATIONS AND A MITIGATION MONITORING AND REPORTING PROGRAM PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, the City of Milpitas, the Santa Clara County Health Department, and the Mid-Peninsula Housing Coalition proposed construction of the Milpitas Community Library; 110 units of senior housing; a County of Santa Clara Health Center; retail, banquet and meeting space; two parking garages; and streetscape and circulation improvements on approximately 6.87 acres, located south of Weller Lane, west of the Union Pacific Railroad and north of Carlo Street. These proposals are collectively referred to as the "Project"; and

WHEREAS, the City determined that an Environmental Impact Report ("EIR") would be required for the Project and circulated Notices of Preparation dated July 8, 2004, and August 27, 2004, to public agencies and interested parties and the State Clearinghouse for consultation on the scope of the EIR; and

WHEREAS, based on the responses to the Notice of Preparation, the City prepared a Draft Environmental Impact Report ("Draft EIR") dated October 2004 (SCH No. 2004082131) that reflected the independent judgment of the City as to the potential environmental effects of the Project. The Draft EIR was circulated for a 45 day public review and comment period, from October 18, 2004 to December 1, 2004; and

WHEREAS, the Project and the EIR were the subject of a public scoping meeting on July 16, 2004, a City public meeting on October 28, 2004, and a Parks, Recreation, and Cultural Resources Commission meeting on December 6, 2004; and

WHEREAS, City staff reviewed all comments received on the Draft EIR during the public review period and prepared written responses providing the City's good faith, reasoned analysis on the environmental issues raised by the comments. Revisions to the Draft EIR were identified as appropriate. City staff reviewed all written responses to comments and all revisions to the Draft EIR and determined that none of the responses and/or revisions included significant new information requiring recirculation of the Draft EIR pursuant to CEQA Guidelines § 15088.5. The comment letters, written responses to comments and revisions to the Draft EIR are contained in a separately bound Responses to Comments Document dated December 2004. The October 2004 Draft EIR and the December 2004 Responses to Comments Document together constitute the final Environmental Impact Report for the Project pursuant to CEQA Guidelines §§ 15089 and 15132, and reflect the City's independent judgment and analysis on the potential environmental impacts of the Project; and

WHEREAS, on December 6, 2004, the Parks, Recreation, and Cultural Resources Commission held a noticed public hearing on the Project at which time the Commission considered a written staff report, the Draft EIR, written and oral comments on the Draft EIR, and all other oral and written comments presented to them. Based on this evidence, the Parks, Recreation, and Cultural Resources Commission recommended that the City Council certify the EIR; and

WHEREAS, the EIR identifies the potential for significant effects on the environment from development of the Project, most of which can be substantially reduced through EIR mitigation measures; therefore, approval of the Project must include mitigation findings and findings regarding alternatives as set forth in Attachment A, *CEQA Findings and Statement of Overriding Considerations*, which is incorporated herein by reference; and

WHEREAS, some of the significant effects identified in the EIR cannot be lessened to a level of less than significant; therefore, approval of the Project must include a Statement of Overriding Considerations as also set forth in Attachment A; and

WHEREAS, a Mitigation Monitoring and Reporting Program, as required by CEQA, is contained in Attachment B; and

WHEREAS, at its meeting of January 4, 2005 the City Council considered certification of the final EIR for the Project.

NOW, THEREFORE, BE IT RESOLVED that the foregoing recitals are true and correct and made a part of this resolution.

BE IT FURTHER RESOLVED that the Milpitas City Council certifies as follows:

A. That the final EIR for the Project has been completed in compliance with CEQA and the CEQA Guidelines.

B. That the EIR was presented to the City Council who reviewed and considered the information contained therein prior to acting on the North Main Street Development Project.

C. That the final EIR reflects the City's independent judgment and analysis on the potential for environmental effects of the Project.

D. That the custodian of the documents and other materials that constitute the record of proceedings for the Project is the City of Milpitas Planning Division located at City Hall, 455 East Calaveras Boulevard, Milpitas, California 95035.

BE IT FURTHER RESOLVED that the Milpitas City Council adopts and incorporates by reference Attachment A containing mitigation and alternatives findings, and the Statement of Overriding Considerations for the Project.

BE IT FURTHER RESOLVED that the Milpitas City Council adopts and incorporates by reference Attachment B containing the Mitigation Monitoring and Reporting Program for the Project.

PASSED AND ADOPTED this 4th day of January, 2005, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Gail Blalock, City Clerk

APPROVED:

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Steven T. Mattas, City Attorney

North Main Street Development Project

CEQA FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS (ATTACHMENT A)

Pursuant to Sections 15091 and 15093 of the State CEQA Guidelines and Section 21081 of the Public Resources Code

The Final Environmental Impact Report (Final EIR) prepared by the City of Milpitas (City) for the North Main Street Development Project (project) consists of the Draft EIR and Response to Comments on the Draft EIR. The Final EIR identifies significant environmental impacts that will result from implementation of the project. However, the City finds that the inclusion of certain mitigation measures as part of project approval will reduce all but five of those potential significant impacts to less-than-significant levels. The impacts which are not reduced to less-than-significant levels are identified and overridden due to specific considerations that are described below.

As required by CEQA, the City, in adopting these CEQA Findings and Statement of Overriding Considerations, also adopts a Mitigation Monitoring and Reporting Program for the project. The City finds that the Mitigation Monitoring and Reporting Program, which is incorporated by reference and made a part of these findings as Attachment B, meets the requirements of Public Resources Code Section 21081.6 by providing for the implementation and monitoring of measures intended to mitigate potentially significant effects of the project. In accordance with CEQA and the *CEQA Guidelines*, the City adopts these findings as part of the certification of the Final EIR for the project. Pursuant to Public Resources Code Section 21082.1(c)(3), the City also finds that the Final EIR reflects the City's independent judgment as the lead agency for the project.

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ATTACHMENT A

SECTION 1: INTRODUCTION

1.1 Statutory Requirements for Findings

Section 15091 of the *CEQA Guidelines* states that:

> *(a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:*
>
> *(1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.*
>
> *(2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.*
>
> *(3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.*

In short, CEQA requires that the lead agency adopt mitigation measures or alternatives, where feasible, to avoid or mitigate significant environmental impacts that will otherwise occur with implementation of the project. Project mitigation or alternatives are not required, however, where they are infeasible or where the responsibility for modifying the project lies with another agency.[1]

For those significant effects that cannot be mitigated to a less-than-significant level, the public agency is required to find that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment.[2] The *CEQA Guidelines* state in section 15093 that:

> *"If the specific economic, legal, social, technological, or other benefits of a propos[ed] project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered 'acceptable.'"*

1.2 Record of Proceedings

For purposes of CEQA and the findings set forth herein, the record of proceedings for the City's decision on the project consists of: a) matters of common knowledge to the City, including, but not limited to, federal, State and local laws and regulations; and b) the following documents which are in the custody of the City:

[1] *CEQA Guidelines*, Section 15091 (a), (b).

[2] Public Resources Code Section 21081(b).

- Notice of Preparation and other public notices issued by the City in conjunction with the Project (see Appendix A of the Draft EIR for the Notice of Preparation);
- The Public Review Draft EIR, dated October 2004;
- All written comments submitted by agencies and members of the public during the public comment period on the Draft EIR and responses to those comments (see *North Main Street Development Project EIR Responses to Comments Document*);
- The Mitigation Monitoring and Reporting Program (Attachment B);
- All findings, statements of overriding consideration, and resolutions adopted by the City in connection with the project, and all documents cited or referred therein;
- All final reports, studies, memoranda, maps, correspondence, and all planning documents prepared by the City or the consultants to each, or responsible or trustee agencies with respect to: a) the City's compliance with CEQA; b) development of the project site; or c) the City's action on the project; and
- All documents submitted to the city by agencies or members of the public in connection with development of the project.

1.3 Organization/Format of Findings

Section 2 of these findings contains a summary description of the project, sets forth the objectives of the project, and provides related background information. Section 3 identifies the potentially significant effects of the project that were determined to be mitigated to a less-than-significant level. All numbered references identifying specific mitigation measures refer to numbered mitigation measures found in the Draft EIR. Section 4 identifies the significant impacts that cannot be mitigated to a less-than-significant level even though all feasible mitigation measures have been identified and incorporated into the project. Section 5 identifies the project's potential environmental effects that were determined not to be significant, and do not require mitigation. Cumulative effects are discussed in Section 6. Section 7 discusses the feasibility of project alternatives and Section 8 includes the City's Statement of Overriding Considerations. These findings summarize the impacts and mitigation measures from the Draft EIR and Responses to Comments document. Full descriptions and analyses are contained in the original document.

SECTION 2: THE NORTH MAIN STREET DEVELOPMENT PROJECT

2.1 Project Objectives

The main objective of the City is to allow for the construction of a variety of individual projects in the Midtown area of Milpitas. Other objectives include:

- Develop underutilized parcels within the project site to provide additional services for residents of Milpitas and Santa Clara County.
- Improve local circulation and encourage pedestrian activity.
- Further implementation of the Midtown Specific Plan and General Plan.
- Aggregation of uses to provide a concentration of land use that would serve as a catalyst for further development in the area.

Specific objectives related to the **library** include:

- Develop updated library space to serve library patrons.
- Provide 60,000 square feet of library floor space.
- Maintain the historic integrity of the Milpitas Grammar School.

Specific objectives related to the **senior housing** include:

- Provide affordable housing opportunities for seniors within the City of Milpitas.

Specific objectives related to the **health center** include:

- Provide convenient access to health facilities.

Specific objectives related to the proposed **retail, banquet, and meeting space** include:

- Provide retail and meeting space opportunities within the project site.

Specific objectives related to **parking, streetscape, and circulation improvements** include:

- Improve circulation within the project site.
- Provide structured parking for up to 800 automobiles that can be used by multiple facilities in the adjacent area.
- Improve pedestrian and vehicle circulation and access.
- Provide energy generator/backup power to certain project facilities.

2.2 Project Description

The proposed project comprises a number of individual projects. These individual projects include:

- *City of Milpitas Community Library Project.* This project would involve the construction of a new library, and involve the rehabilitation of a historic grammar school building. The library facility would total approximately 60,000 square feet.
- *The Mid-Peninsula Housing Coalition Senior Housing Project.* The Mid-Peninsula Housing Coalition is proposing to construct up to 110 units in a senior housing development. The existing historic DeVries Home would be relocated on-site and incorporated into this development.
- *Santa Clara County Health Center Project.* The County of Santa Clara would develop a 60,000 square foot health care facility. This facility would be a multi-story building, and provide a range of medical services.
- *Proposed Retail, Banquet and Meeting Space.* The project would include the development of approximately 25,000 square feet of retail space and approximately 25,000 square feet of banquet and meeting space incorporated into the parking structures.
- *Parking, Streetscape, and Circulation Improvements.* The City is planning to construct several parking, streetscape, and circulation improvements. Improvements that are evaluated in this EIR include two parking structures with up to 800 parking spaces and energy conservation and

production facilities, and several streetscape improvements to North Main Street, Winsor Avenue and Carlo Street.

2.3 Alternatives

Based on the project objectives and anticipated environmental consequences, and pursuant to Section 15126.6 of the *CEQA Guidelines*, the following project alternatives were selected for analysis:

- The **No Project/No Build alternative**, which assumes the continuation of existing conditions within the project site. This alternative would avoid most of the project's impacts.
- The **Reduce Build alternative**, which assumes a reduction in the size of most of the NMSD Project components. This alternative would reduce some of the project's impacts.
- The **Senior Center alternative**, which assumes the Milpitas Grammar School would be used as a Senior Center. This alternative would reduce some of the project's impacts.

A more detailed description of these alternatives, and required findings, are set forth in Section 7: Feasibility of Project Alternatives and Mitigation Measures.

SECTION 3: EFFECTS DETERMINED TO BE MITIGATED TO LESS-THAN-SIGNIFICANT LEVELS

The Draft EIR identified certain potentially significant effects that could result from the project. However, the City finds for each of the significant or potentially significant impacts identified in this section (Section 3) that based upon substantial evidence in the record, changes or alterations have been required or incorporated into the project which avoid or substantially lessen the significant effects as identified in the Final EIR[3] and, thus, that adoption of the mitigation measures set forth below will reduce these significant or potentially significant effects to less-than-significant levels. Adoption of the recommended mitigation measures will effectively make the mitigation measures part of the project.

3.1 Transportation, Circulation and Parking

Impact TRANS-1: Implementation of the proposed NMSD Project would result in a significant traffic impact at the intersection of Abel Street/Marylinn Drive in the PM peak hour.

Mitigation Measure for Impact TRANS-1: A separate northbound right-turn lane shall be installed and a overlap phase shall be implemented for a westbound right-turn lane prior to occupancy of the new library. The lane additions will require some right-of-way acquisition from a parking lot located on the southeast corner of the intersection. In addition, provision of a westbound overlap phase would preclude southbound U-turns at this intersection. This mitigation would provide LOS D or better.

Finding for Impact TRANS-1: Mitigation Measure TRANS-1, which will be incorporated into the project, will substantially lessen Impact TRANS-1. The City finds that the installation of a separate northbound right-turn lane and the implementation of a westbound overlap phase are

[3] *CEQA Guidelines*, Section 15091.

feasible and will reduce the project's traffic impact to the intersection of Abel Street/Marylinn Drive to a less-than-significant level.

Impact TRANS-2: Implementation of the proposed NMSD Project would result in a significant traffic impact at the intersection of Main Street/Calaveras Boulevard (SR 237) Off-Ramp in the PM peak hour.

Mitigation Measure TRANS-2: Either of the following mitigation measures shall be implemented to mitigate this impact to a less-than-significant level.

(a) Installation of a traffic signal shall be investigated by City of Milpitas at the intersection and a separate southbound left-turn lane shall be installed on Main Street. If the City determines that a traffic signal is warranted, the developers shall pay a "fair share" cost towards the construction of the signal. The "fair share" cost will be determined by the City based on the magnitude of the project impacts.

(b) An *alternative mitigation* that could alleviate this impact is elimination of the proposed Eastern Parking Garage driveway on Main Street. The intersection would operate under LOS C without the driveway. With this mitigation, the intersection of Main Street/Weller Lane would still operate under acceptable LOS. This mitigation would exacerbate the need for a traffic signal at the South Main Street/Carlos Street/ Calaveras Boulevard On-Ramp intersection (see Impact TRANS-3).

Finding for Impact TRANS-2: Mitigation Measure TRANS-2, which will be incorporated into the project, will substantially lessen Impact TRANS-2. The City finds that the installation of a traffic signal (if deemed necessary) and a separate northbound turn signal, or, alternately, the elimination of the proposed Eastern Parking Garage Driveway, are feasible measures and will reduce the project's impact to the off-ramp at the intersection of Main Street/Calaveras Boulevard to a less-than-significant level.

Impact TRANS-3: Implementation of the proposed NMSD Project would result in a significant traffic impact at the intersection of South Main Street/Carlo Street/Calaveras Boulevard (SR 237) On-Ramp in the PM peak hour.

Mitigation Measure TRANS-3: The City shall perform a complete signal warrant analysis at this location. If the City determines that a traffic signal is warranted, the developers shall pay a "fair share" cost towards the construction of the signal. The "fair share" cost is to be determined by the City based on the magnitude of the project impacts.

Finding for Impact TRANS-3: Mitigation Measure TRANS-3, which will be incorporated into the project, will substantially lessen the effects of the project on the operation of the South Main Street/Carlo Street/Calaveras Boulevard On-Ramp in the PM peak hour. The City has the capabilities to perform a signal warrant analysis and devise a methodology to determine the fair share costs of a future traffic signal. A traffic signal would manage traffic flow at the On-Ramp such that excessive congestion would not occur. Therefore, the City finds that Mitigation Measure TRANS-3 is feasible and will reduce Impact TRANS-3 to a less-than-significant level.

3.2 Air Quality

Impact AIR-1: Activities associated with demolition, site preparation and construction would generate short-term emissions of criteria pollutants, including suspended and inhaleable particulate matter and equipment exhaust emissions.

Mitigation Measure AIR-1: Implementation of the following mitigation measures would reduce this impact to a less-than-significant level.

- The basic and enhanced control measures listed in Table IV.D-8 shall be implemented during construction of the proposed project.
- Any temporary haul roads to the soil stockpile area shall be routed away from existing neighboring land uses. Any temporary haul roads shall be surfaced with gravel and/or regularly watered to control dust or treated with an appropriate dust suppressant.
- Water sprays shall be utilized to control dust when material is being added or removed from the stockpile. When the stockpile is undisturbed for more than one week, the storage pile shall be treated with a dust suppressant or crusting agent to eliminate wind-blown dust generation.
- All neighboring properties located within 500 feet of property lines shall be provided with the name and phone number of a designated construction dust control coordinator who will respond to complaints within 24 hours by suspending dust-producing activities or providing additional personnel or equipment for dust control as deemed necessary. The phone number of the BAAQMD pollution complaints contact shall also be provided. The dust control coordinator shall be on-call during construction hours. The coordinator shall keep a log of complaints received and remedial actions taken in response. This log shall be made available to City staff upon its request.

The above mitigation measures include all feasible measures for construction emissions identified by the BAAQMD. According to the District's threshold of significance for construction impacts, implementation of the measures would reduce construction impacts of the proposed project to a less-than-significant level.

Findings for Impact AIR-1: Mitigation Measure AIR-1, which requires the implementation of construction period dust-and exhaust-control measures, will substantially lessen the project's short-term emissions of dust and exhaust. The short-term air quality measures listed in Mitigation Measure AIR-1 are feasible and are considered by air quality experts, including the Bay Area Air Quality Management District, to be effective measures in reducing the short-term air quality impacts of construction projects. Therefore, the City finds that Mitigation Measure AIR-1 is feasible and will reduce Impact AIR-1 to a less-than-significant level.

3.3 Noise

Impact NOISE-1: Noise levels from construction activities may range up to 96 dBA L_{max} at the nearest land uses to the construction site for limited time periods during the duration of construction for certain activities such as pile driving or the use of other heavy equipment.

Mitigation Measure NOISE-1: The following measures shall be implemented during construction of each of the proposed projects:

(a) Standard construction activities shall be limited to between 7:00 a.m. and 7:00 p.m. No construction activities that exceed City standards shall be allowed on federal holidays.

(b) To reduce daytime noise impacts due to construction, to the maximum feasible extent, the City shall require the applicant to develop a site-specific noise reduction program, subject to city review and approval, which includes the following measures:

- Signs shall be posted at the construction site that include permitted construction days and hours, a day and evening contact number for the job site, and a day and evening contact number for the City in the event of problems;
- An on-site complaint and enforcement manager shall be posted to respond to and track complaints;
- A pre-construction meeting shall be held with the job inspectors and the general contractor/on-site project manager to confirm that noise mitigation and practices are completed and in place prior to the issuance of a building permit (including construction hours, neighborhood notification, posted signs, etc.);
- Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds, wherever feasible);
- Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed-air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed-air exhaust shall be used; this muffler can lower noise levels where feasible, which could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever feasible; and
- Stationary noise sources shall be located as far from sensitive receptors as possible, and they shall be muffled and enclosed within temporary sheds, or insulation barriers or other measures shall be incorporated to the extent feasible.

Construction period impacts would still occur with implementation of the measures detailed above. However, because they would be short-term in duration, and the construction activities will restricted to the hours listed in the Noise Ordinance, the City considers this a less-than-significant impact.

Finding for Impact NOISE-1: Mitigation Measure NOISE-1, which requires the implementation of measures to control construction noise, will substantially lessen the adverse construction-period noise of the project. Mitigation Measure NOISE-1 comprises noise-control actions that have been successfully used by the City of Milpitas as well as municipalities throughout the State to substantially reduce construction period noise levels. Similar measures are incorporated into the conditions of approval for development projects throughout California, and are easily monitored during the actual construction period. Therefore, the City finds that Mitigation Measure NOISE-1 is feasible and will reduce Impact NOISE-1 to a less-than-significant level.

Impact NOISE-2: Train related noise from the Union Pacific Transportation Railroad rail line could impact the proposed library, health center, and senior housing located nearby.

Mitigation Measure NOISE-2: To meet the City's noise standards the following mitigation measures shall be incorporated:

- Building façade upgrades would be required for the library to meet the 45 dBA L_{dn} interior noise standard. The exterior wall of the proposed library shall be constructed to meet a Sound Transmission Class (STC) of 39 dBA. Once constructed, this wall assembly would provide a minimum of 36 dBA of noise attenuation. These façade upgrades or others would reduce the interior noise level to 45 dBA L_{dn} or less (81 dBA – 36 dBA = 45 dBA).
- To achieve the indoor fresh-air ventilation requirements specified in Chapter 35 of the Uniform Building Code, the library, medical clinic, banquet facility, and the multifamily residences would require mechanical ventilation to ensure that windows can remain closed for a prolonged period of time.

Implementation of the above mitigation measure would reduce the impact to a less-than-significant level.

Finding for Impact NOISE-2: Mitigation Measure NOISE-2, which requires façade upgrades and the installation of mechanical ventilation in the library, medical clinic, banquet facility, and senior housing residential units, will substantially lessen the excessive noise levels generated by the Union Pacific Transportation Railroad. Building façade upgrades and the use of mechanical ventilation to allow for the closure of windows during long periods of time are commonly-accepted methods of reducing train noise on sensitive receptors located adjacent to trains. The incorporation of these improvements into the project can be easily verified during the plan review process. Therefore, the City finds that Mitigation Measure NOISE-2 is feasible and will reduce Impact NOISE-2 to a less-than-significant level.

Impact NOISE-3: Local traffic would generate long-term noise levels exceeding *Normally Acceptable* and *Conditionally Acceptable* noise levels within the vicinity of the NMSD Project site.

Mitigation Measure NOISE-3: To meet the City's interior noise standards the following mitigation measures shall be incorporated:

- To achieve the indoor fresh-air ventilation requirements specified in Chapter 35 of the Uniform Building Code, the senior housing, the library, the medical clinic, and the retail/banquet facility will require mechanical ventilation to ensure that windows can remain closed for a prolonged period of time.

Implementation of the above mitigation measure would ensure that acceptable noise levels are achieved and reduce the impact to a less-than-significant level.

Finding for Impact NOISE-3: Mitigation Measure NOISE-3, which requires the installation of mechanical ventilation in the senior housing, library, medical clinic, and retail/banquet facility, will substantially lessen the noise effects of local traffic on these sensitive land uses. The use of mechanical ventilation allows windows to be closed for extended periods of time, reducing the effects of external noise. The incorporation of mechanical ventilation systems into proposed

buildings can be easily verified during the plan review process. Therefore, the City finds that Mitigation Measure NOISE-3 is feasible and will reduce Impact NOISE-3 to a less-than-significant level.

Impact NOISE-4: Train related vibration from the Union Pacific Transportation Railroad rail line could impact the proposed library.

Mitigation Measure NOISE-4: To reduce the vibration impact on the proposed project site, the following mitigation measure shall be incorporated:

- Prior to obtaining a building permit, the project applicant shall conduct a detailed analysis of the vibration generated by the existing railroad tracks at the proposed library site. Mitigation measures such as vibration isolation shall be incorporated into the project design if necessary.

Implementation of the above mitigation measure would ensure that acceptable vibration levels are achieved and reduce the impact to a less-than-significant level.

Findings for Impact NOISE-4: Mitigation Measure NOISE-4, which requires a vibration analysis of the library site and the incorporation of vibration-reducing measures into the library design (if necessary), will substantially lessen the effects of vibration on the library site. The vibration evaluation will indicate the need for modifications to the building design; such improvements could be easily verified by the City during the plan review process. Therefore, the City finds that Mitigation Measure NOISE-4 is feasible and will reduce Impact NOISE-4 to a less-than-significant level.

3.4 Hydrology and Water Quality

Impact HYD-1: Construction activities and post-construction site uses associated with the development of each element of the NMSD Project could result in degradation of surface water quality by reducing the quality of stormwater runoff.

Mitigation Measure HYD-1: Implementation of both of the following mitigation measures would reduce the level of significance of this impact to a less-than-significant level:

(a) Each project proponent shall prepare a SWPPP designed to reduce potential degradation impacts to surface water quality through the construction period of the project. It is not required that the SWPPP be submitted to the RWQCB, but the SWPPP must be maintained on-site and made available to RWQCB staff upon request. The SWPPP shall include specific and detailed BMPs designed to mitigate construction-related pollutants. At minimum, BMPs shall include practices to minimize the contact of construction materials, equipment, and maintenance supplies (e.g., fuels, lubricants, paints, solvents, adhesives) with stormwater. The SWPPP shall specify properly designed centralized storage areas that keep these materials out of the rain. An important component of the stormwater quality protection effort is the knowledge of the site supervisors and workers. To educate on-site personnel and maintain awareness of the importance of stormwater quality protection, site supervisors shall conduct regular tailgate meetings to discuss pollution prevention. The frequency of the meetings and required personnel attendance list shall be specified in the SWPPP. BMPs designed to reduce erosion of exposed soil may include, but are not limited to: soil

stabilization controls, watering for dust control, perimeter silt fences, placement of hay bales, and sediment basins. The potential for erosion is generally increased if grading is performed during the rainy season as disturbed soil can be exposed to rainfall and storm runoff. If grading must be conducted during the rainy season, the primary BMPs selected shall focus on erosion control, that is, keeping sediment on the site. End-of-pipe sediment control measures (e.g., basins and traps) shall be used only as secondary measures. If hydroseeding is selected as the primary soil stabilization method, then these areas shall be seeded by September 1 and irrigated as necessary to ensure that adequate root development has occurred prior to October 1. Entry and egress from the construction site shall be carefully controlled to minimize off-site tracking of sediment. Vehicle and equipment wash-down facilities shall be designed to be accessible and functional during both dry and wet conditions.

(b) Post-construction, the City shall ensure that design of each project element includes features and operational Best Management Practices to reduce potential impacts to surface water quality associated with operation of the project to the best extent practicable. These features shall be included in the drainage plan and final development drawings for each project element. Specifically, the final design may include measures designed to mitigate potential water quality degradation of runoff from all portions of the completed development. In general, passive, low-maintenance BMPs (e.g., grassy swales, porous pavements) are preferred over active filtering or treatment systems. If the design includes higher maintenance BMPs (e.g., sedimentation basins, hydrocarbon interceptors), then a maintenance plan shall be developed and implemented to inspect and maintain these features. The NMSD Projects shall comply with the C3 provisions of the City of Milpitas NPDES Permit. These projects may be eligible for a partial waiver under the City's Stormwater C.3 waiver program. The City of Milpitas shall ensure that the SWPPP and drainage plan are prepared and adequate prior to approval of the grading plan.

Finding for Impact HYD-1: Mitigation Measure HYD-1, which requires the preparation and implementation of a Storm Water Pollution Prevention Plan (SWPPP) with both construction and operation-period Best Management Practices (BMPs), will substantially lessen the effects of the project on stormwater quality. A SWPPP is considered by the Regional Water Quality Control Board (RWQCB) to be an effective way to reduce the contamination of stormwater on a project site resulting from erosion and chemical contamination on impervious surfaces (e.g., parking lots). The adequacy of the SWPPP (including associated BMPs) will be verified by the City prior to the initiation of ground-disturbing activities. Therefore, the City finds that Mitigation Measure HYD-1 is feasible and will reduce Impact HYD-1 to a less-than-significant level.

Impact HYD-2: Implementation of the NMSD Project could exacerbate existing drainage and localized flooding problems.

Mitigation Measure HYD-2: The City shall retain a qualified engineer to prepare a drainage plan for the proposed project improvements in accordance with the City's general Conditions of Approval requirements. As a condition of approval of the final grading and drainage plans for each element of the NMSD Project, it must be demonstrated that implementation of the proposed drainage plans would not exceed the capacity of project area drainage facilities and the project will conform to FEMA requirements for development in floodplains. A storm drain maintenance plan that includes annual inspections of any bioswales, sedimentation basins, drainage ditches,

and drainage inlets, and prompt removals of sediments and debris, as necessary, shall be submitted with the drainage plan.

The grading and drainage plans shall be reviewed for compliance with these requirements by the City of Milpitas. Any improvements to the storm drainage system deemed necessary by the City will be incorporated into the conditions of approval for each individual project.

Finding for Impact HYD-2: Mitigation Measure HYD-2, which requires the preparation of a drainage plan (including a storm drain maintenance plan), will substantially lessen the potential that the project will result in localized flooding. The drainage plan will analyze the existing capacity of the City's stormwater system, calculate additional stormwater that would be generated by the project, and determine whether the existing stormwater infrastructure is adequate to accommodate the additional runoff that would be generated by the project. If the existing or anticipated stormwater system is not adequate to accommodate the project's runoff, then the project sponsor(s) will be required to modify the project or propose improvements to the stormwater system. Therefore, the City finds that Mitigation Measure HYD-2 is feasible and will reduce Impact HYD-2 to a less-than-significant level.

3.5 Hazards

Impact HAZ-1: Implementation of the NMSD Project could expose construction workers and/or the public to hazardous materials from contaminants in soil during and following construction activities.

Mitigation Measure HAZ-1: Prior to the issuance of any grading, demolition, or building permits for the project site, a Risk Management Plan (RMP) shall be prepared for the project site. At a minimum, the RMP shall establish soil and groundwater mitigation and control specifications for grading and construction activities at the site, including health and safety provisions for monitoring exposure to construction workers, procedures to be undertaken in the event that previously unreported contamination is discovered, and emergency procedures and responsible personnel. The RMP shall also include procedures for managing soils and groundwater removed from the site to ensure that any excavated soils and/or dewatered groundwater with contaminants are stored, managed, and disposed of in accordance with applicable regulations and permits. The RMP shall describe groundwater monitoring wells that will be affected by the construction activities, provide procedures for the proper abandonment of those wells, and provide locations for replacement monitoring wells, if warranted. The RMP shall also include an Operations and Maintenance Plan component, to ensure that health and safety measures required for future construction and maintenance at the project site shall be enforced in perpetuity. Any change in use would prompt a new CEQA process which will reveal all such contamination and ensure that human exposure to residual contamination is prevented. The RMP shall be submitted to the Milpitas Fire Department for review and approval.

Finding for Impact HAZ-1: Mitigation Measure HAZ-1, which requires the preparation of a Risk Management Plan (RMP), will substantially lessen the safety impacts to construction workers associated with soil and groundwater contamination. The RMP represents a standard method of managing the health risks of contaminated soil and groundwater at construction sites, and for the proper disposal of such materials. The RMP also includes monitoring provisions and protocol for managing previously unidentified hazards. The RMP thus adequately protects construction workers and the general public from contaminated soil and groundwater. Therefore, the City

finds that Mitigation Measure HAZ-1 is feasible and will reduce Impact HAZ-1 to a less-than-significant level.

Impact HAZ-2: Implementation of the NMSD Project could hinder ongoing investigation and remediation of petroleum hydrocarbon and solvent contamination at a project site parcel.

Mitigation Measure HAZ-2: If development of the project occurs prior to regulatory case closure of the 130 Winsor Avenue site, SCCDEH/SCVWD approval shall be a condition of requirement for any demolition, grading, or construction permits on that property. Any requirements of SCCDEH, such as abandonment and/or replacement of groundwater monitoring wells, shall be incorporated as conditions of approval for the permit.

Finding for Impact HAZ-2: Mitigation Measure HAZ-2, which requires the approval of the applicable hazardous materials regulatory agencies for development at 130 Winsor Avenue (if the case for that property is not closed by the time development is expected to occur), will substantially lessen the adverse health effects resulting from contamination of that site. Review by SCCDEH/SCVWD of the project at 130 Winsor Avenue will ensure that hazardous materials concerns at the site are addressed prior to the initiation of soil-disturbing activities. The requirements of the hazardous materials regulatory agencies will be imposed on the project via conditions of approval. Therefore, the City finds that Mitigation Measure HAZ-2 is feasible and will reduce Impact HAZ-2 to a less-than-significant level.

Impact HAZ-3: Improper use or transport of hazardous materials during construction activities could result in releases affecting construction workers and the general public.

Mitigation Measure HAZ-3: The RMP for the project site shall include procedures for emergency incident response and the management and disposal of contaminated soils and groundwater (see Mitigation Measure HAZ-1, above). Use, storage, disposal, and transport of hazardous materials during construction activities shall be performed in accordance with existing local, State, and federal hazardous materials regulations. No additional mitigation is required.

Finding for Impact HAZ-3: Mitigation Measure HAZ-3, which requires the preparation of a Risk Management Plan (RMP), will substantially lessen the adverse health effects resulting from the handling of hazardous materials used on the project site during the construction period. The RMP will designate protocols for the safe handling and disposal of hazardous materials that are expected to be used at the project construction sites. These protocols will be consistent with local, State, and federal law, and will ensure minimal human and environmental contact with hazardous materials within the project site. Therefore, the City finds that Mitigation Measure HAZ-3 is feasible and will reduce Impact HAZ-3 to a less-than-significant level.

Impact HAZ-4: Development of the proposed project could expose construction workers and future residents to potentially hazardous concentrations of agricultural chemical residues in shallow soils.

Mitigation Measure HAZ-4: Prior to the issuance of grading or construction permits for the project site parcels west of North Main Street (APNs 22-08-041, 22-08-042, and 22-08-003), a qualified environmental professional shall conduct an environmental investigation at the project site in accordance with California Department of Toxic Substances Control (DTSC) Interim

Guidance for sampling former agricultural fields (Interim Guidance). Based on the size of the site, the Interim Guidance specifies that a minimum of eight composite samples should be collected from shallow soils and analyzed for potential organic and inorganic agricultural chemical residues. As specified in the Interim Guidance, any detected organic compounds or metals above naturally-occurring concentrations must be evaluated in a risk assessment, and additional remedial action such as soils removal may be required, depending on the results of the environmental investigation and risk assessment. Findings shall also be incorporated into the RMP for the project site (Mitigation Measure HAZ-1, above).

Finding for Impact HAZ-4: Mitigation Measure HAZ-4, which requires the completion of an environmental investigation on select parcels within the project site, and the incorporation of the investigation's findings into the Risk Management Plan (RMP), will substantially lessen the environmental and health effects resulting from the presence of agriculture-related contamination within site soils. The RMP will include protocols to protect construction workers and future site residents from agriculture-related contaminants, if these contaminants pose a health risk. The Milpitas Fire Department, which will review the RMP, will ensure that the document includes the findings of the environmental investigation. Therefore, the City finds that Mitigation Measure HAZ-4 is feasible and will reduce Impact HAZ-4 to a less-than-significant level.

Impact HAZ-5: Demolition or renovation of structures containing lead-based paint, asbestos-containing building materials, and/or mold contamination could release airborne toxics, which may affect construction workers and the public.

Mitigation Measure HAZ-5: Implementation of this two-part measure would reduce this impact to a less-than-significant level:

(a) As a condition of approval for any demolition or renovation permit for a structure known or suspected to have been constructed prior to 1985, an asbestos and lead-based paint survey shall be performed. If asbestos-containing materials were determined to be present, the materials shall be abated by a certified asbestos abatement contractor in accordance with the regulations and notification requirements of the Bay Area Air Quality Management District. If lead-based paint were identified, then federal and State construction worker health and safety regulations shall be followed during renovation or demolition activities. If loose or peeling lead-based paint were identified, they shall be removed by a qualified lead abatement contractor and disposed of in accordance with existing hazardous waste regulations.

(b) As a condition of any demolition or renovation permit for the former Senior Center Property (160 North Main Street), a qualified environmental professional shall be retained to investigate, evaluate, and remediate the mold contamination at the site, in accordance with guidelines in US EPA's "Mold Remediation in Schools and Commercial Buildings" (EPA Document 402-K-01-001). A final mold remediation report shall be produced to document the remediation and describe any maintenance measures required to prevent recurrence of the mold contamination. These maintenance measures shall be incorporated into conditions of approval for the construction or renovation permit.

Finding for Impact HAZ-5: Mitigation Measure HAZ-5, which requires the investigation and abatement of asbestos, lead, and mold contamination in select buildings within the project site

prior to demolition, will substantially lessen the health risks resulting from the presence of these substances. The lead-based paint and asbestos and mold surveys will be used to determine the need for abatement of these materials. After any necessary abatement, these materials will not pose a health threat to construction workers or future residents of the project site. Mold maintenance measures will be incorporated into the conditions of approval for the demolition or renovation permit, which will ensure that such measures will be implemented and that future occupants of the site will be protected from mold-related hazards. Therefore, the City finds that Mitigation Measure HAZ-5 is feasible and will reduce Impact HAZ-5 to a less-than-significant level.

3.6 Cultural and Paleontological Resources

Impact CULT-3: Rehabilitation and reuse of the Milpitas Grammar School as part of implementation of the Library element of the NMSD Project could result in adverse impacts to the building's historic fabric.

Mitigation Measure CULT-3a: The Milpitas Grammar School will be rehabilitated in accordance with the Secretary's Standards.

If conformity with the Secretary's Standards is not possible, then the following mitiation measures shall be implemented.

Mitigation Measure CULT-3b: Prior to the rehabilitation of the Milpitas Grammar School, the building shall be documented to create a public record of the historical qualities that justify the school's National Register eligibility, and that will be available to researchers and the general public. Each of the following measures shall be completed:

- Produce a full set of HABS-style large format documentary photographs. A minimum of 20 views on 4- x 5-inch or larger format film shall be taken. The photographs shall be processed archivally, and copies of the photographs shall be deposited with the City of Milpitas, the Bancroft Library at the University of California, Berkeley; and the NWIC. The City will provide copies to the local library and the Milpitas Historical Society.
- Prepare a history of the Milpitas Grammar School that incorporates oral history, documentary research, and architectural information. The City will submit the documentation to the NWIC and provide copies to the local library and the Milpitas Historical Society.

Finding for Impact CULT-3: Mitigation Measure CULT-3, which requires the rehabilitation of the Milpitas Grammar School in accordance with the Secretary of the Interior's Standards, and the documentation of the building's architectural fabric, will substantially lessen the effects of the project on the historic architectural fabric of the school. The Secretary of the Interior's Standards for the rehabilitation of historic structures represent accepted design guidelines for the rehabilitation of historic buildings in a way that maintains the historic integrity of the structure. Documenting the Milpitas Grammar School via HABS-style photographs and a history of the building will ensure that records will be preserved of the architectural elements of the building that will be altered through rehabilitation. Therefore, the City finds that Mitigation Measure CULT-3 is feasible and will reduce Impact CULT-3 to a less-than-significant level.

Impact CULT-5: Implementation of each element of the NMSD Project construction could result in impacts to archaeological deposits that may qualify as historical or archaeological resources under CEQA.

Mitigation Measure CULT-5a: Prior to project construction, a qualified professional archaeologist shall prepare a monitoring plan to guide project ground disturbing construction to avoid impacts to potentially significant archaeological deposits. Preparing the monitoring plan may require subsurface examination to determine the presence, nature, extent, and potential significance of archaeological deposits that may be encountered by project activities. The monitoring plan should address the possibility that project construction may encounter prehistoric *and* historical archaeological deposits in the project area. At a minimum, the monitoring plan should include methods to: (1) refine the understanding of project area archaeological sensitivity; (2) determine the likelihood that such subsurface deposits have retained integrity; (3) identify the types of artifacts and features that may be encountered during project construction; and (4) provide guidelines for in-field assessment of archaeological deposits identified during monitoring. The plan should determine the appropriate level of archaeological construction monitoring necessary to avoid significant impacts to cultural resources, and provide guidance for the implementation of such monitoring.

Mitigation Measure CULT-5b: Archaeological construction monitoring shall be conducted as appropriate to fully implement the monitoring plan. Following the completion of archaeological monitoring, a report shall be prepared to document the methods, findings, and recommendations of the monitoring archaeologist. The report shall be submitted to the City, the project applicant, and the NWIC.

Mitigation Measure CULT-5c: If deposits of prehistoric or historical materials are encountered during project activities after the completion of Mitigation Measure CULT-5b, all work within 50 feet should be halted until an archaeologist can evaluate the findings and make recommendations. Prehistoric materials can include flaked-stone tools (e.g., projectile points, knives, choppers) or obsidian, chert, or quartzite tool making debris; midden (i.e., culturally darkened soil often containing heat affected rock, ash and charcoal, shellfish remains, and cultural materials); and stone milling equipment (e.g., mortars, pestles, handstones). Historical materials might include wood, stone, concrete, or adobe footings, walls and other structural remains; debris-filled wells or privies; and deposits of wood, metal, glass, ceramics, and other refuse.

Project personnel shall not collect or move any archaeological or paleontological material. Fill soils that may be used for construction shall not contain archaeological or paleontological materials.

Following the archaeologist's evaluation, a report should be prepared to document the methods, findings, and recommendations of the archaeologist conducting the work. The report shall be submitted to the City, the project applicant, and the NWIC.

Finding for Impact CULT-5: Mitigation Measures CULT-5a, CULT-5b, and CULT-5c, which require the preparation and implementation of a monitoring plan, and the halting of construction activities in the vicinity of archaeological materials, will avoid damage to unidentified

archaeological resources. The monitoring plan will ensure that the potential of the site to contain archaeological resources is understood, and that areas that are considered sensitive for archaeological resources are adequately protected. Halting construction around identified archaeological materials will ensure that the resource remains intact until its significance is determined, and a plan is prepared for the protection of the resource, if necessary. The availability of a monitor on the construction site can be easily verified by the City. Therefore, the City finds that Mitigation Measures CULT-5a, CULT-5b, and CULT-5c are feasible and will reduce Impact CULT-5 to a less-than-significant level.

Impact CULT-6: Construction may disturb human remains, including those interred outside of formal cemeteries.

Mitigation Measure CULT-6: In the event that human remains are encountered, the developer shall: (1) halt work in the immediate area of the remains; (2) contact the Santa Clara County coroner and the City of Milpitas; and (3) contact an archaeologist to evaluate the situation and make recommendations. If the remains are of Native American origin, the coroner will contact the Native American Heritage Commission, which will in turn contact the appropriate Most Likely Descendent (MLD). The MLD will have the opportunity to make a recommendation for the respectful treatment of the Native American remains and related burial goods. The archaeologist shall recover all scientifically valuable information as appropriate, in accordance with the recommendations of the MLD. Following the archaeologist's evaluation, a report should be prepared to document the methods, findings, and recommendations of the archaeologist conducting the work. The report shall be submitted to the City, the project applicant, and the NWIC.

Finding for Impact CULT-6: Mitigation Measure CULT-6, which requires the developer to adhere to existing law and professional standards regarding the treatment of human remains, will substantially lessen the potential effects of the project on human remains, including Native American remains. Implementation of Mitigation Measure CULT-6 will ensure that human remains are evaluated for their cultural and archaeological importance and are protected from additional disturbance. Therefore, the City finds that Mitigation Measure CULT-6 is feasible and will reduce Impact CULT-6 to a less-than-significant level.

Impact CULT-7: Subsurface construction activities associated with each element of the NMSD Project may adversely impact paleontological resources.

Mitigation Measure CULT-7a: If project subsurface construction is limited to a depth of 20 feet or less below the ground surface, the following mitigation measure shall be implemented. If paleontological resources are encountered during project construction, all work within 50 feet of the discovery should be redirected until a qualified paleontologist is contacted to evaluate the finds and make recommendations. If the finds are found to be significant, they shall be avoided by project activities and recovered in accordance with the recommendations of the paleontologist. Upon completion of the recovery, the paleontologist shall address the need for paleontological monitoring of subsequent construction activities. After the recovery of the finds, a report documenting monitoring, methods, and findings shall be prepared by the paleontologist and submitted to the City, the project applicant, and a suitable fossil repository.

Mitigation Measure CULT-7b: If substantial project subsurface excavation occurs at depths greater than 20 feet below the ground surface, then the following mitigation measure shall be implemented. A paleontological assessment by a qualified paleontologist should be conducted to determine if monitoring for paleontological resources is required. The assessment shall include: (1) the results of any geotechnical investigation done for the project area; (2) specific details of the construction plans for the project area; (3) background research; and (4) limited subsurface investigation within the project area. If the possibility of paleontological resources is confirmed, a monitoring plan should be prepared and implemented in conjunction with this evaluation. Upon completion of the paleontological assessment, a report documenting methods, findings, and recommendations shall be prepared and submitted to the City and the project applicant. After the recovery of the finds and the completion of project construction, a report documenting monitoring, methods, and findings should be prepared by the paleontologist and submitted, along with a copy of the monitoring report, to the City, the project applicant, and a suitable fossil repository.

Finding for Impact CULT-7: Mitigation Measures CULT-7a and CULT-7b, which set protocol for the identification and protection of unidentified paleontological resources, will avoid the project's adverse effects to paleontological resources. Requiring paleontological assessment to determine if monitoring is necessary will ensure either that the probability of encountering paleontological resources during the construction period is low or that adequate measures are taken to protect unidentified resources. Requiring construction to halt if paleontological resources are found will allow such resources to be analyzed and protected (if necessary) without additional disturbance. The presence of a paleontological resources monitor can be easily verified in the field by the City. Therefore, the City finds that Mitigation Measures CULT-7a and CULT-7b are feasible and will reduce Impact CULT-7 to a less-than-significant level.

3.7 Aesthetic Resources

Impact AES-1: Implementation of the NMSD Project would create a new source of light and glare.

Mitigation Measure AES-1: Outdoor lighting shall be designed to minimize glare and spillover onto surrounding properties. The proposed project shall incorporate non-mirrored glass or use other glare-reduction techniques to minimize daytime glare.

Finding for Impact AES-1: Mitigation Measure AES-1, which requires the incorporation into the project of lighting which does not spill over into surrounding areas, and low-glare glass or other glare-reducing techniques, will substantially lessen the cumulative effects of additional light and glare on surrounding areas. The redesign of project lighting to minimize spillover light, and the installation of low-glare glass are accepted ways of minimizing the effects of projects on overall light and glare levels. The inclusion of down-shielded lighting and low-glare glass into the project plans can be easily verified by the City during the plan review process. Therefore, the City finds that Mitigation Measure AES-1 is feasible and will reduce Impact AES-1 to a less-than-significant level.

SECTION 4: SIGNIFICANT EFFECTS THAT CANNOT BE MITIGATED TO A LESS-THAN-SIGNIFICANT LEVEL

The Draft EIR and Responses to Comments document identify four impacts that cannot be mitigated to a less-than-significant level even though the City finds that all feasible mitigation measures have been identified and adopted as part of the project. One additional impact may not be mitigated to a less-than-significant level, depending on the feasibility of the mitigation measure, which cannot be determined until a later date. These significant unavoidable impacts are discussed below.

4.1 Transportation, Circulation and Parking

Impact TRANS-4: The addition of traffic from the NMSD Project under Cumulative Conditions would significantly exacerbate AM peak hour operations on five roadway segments that are projected to operate at unacceptable levels without the project. During the PM peak hour, the NMSD Project is expected to significantly exacerbate operation on eight of the 35 study roadway segments. These changes are considered a significant impact.

Mitigation Measure TRANS-4: The City of Milpitas has planned to upgrade traffic signal interconnect and coordination along Calaveras Boulevard. Although this improvement would not reduce the project impacts to a less-than-significant level, it would reduce some congestion and improve traffic flow along Calaveras Boulevard. In addition to the planned signal improvements, the development of both the County Health Center and the provision of retail uses near the senior housing and the library would provide area wide transportation benefits. For example, patrons of the Santa Clara County Health Centers who reside in the City of Milpitas would reduce the length of their trips because they currently must travel to the next closest Health Center, which is currently located in the City of San Jose. These internalized trips to Milpitas would reduce travel over a broader geographic area and would help to reduce regional congestion on both Milpitas and San Jose roadways. In addition, the proposed retail uses would provide another option for new and existing residents in the area to obtain services without having to travel to other parts of the City, especially by car. It is noted that even with these benefits, the cumulative project impacts would remain at a significant level.

No mitigation measures beyond those identified in Mitigation Measures TRANS-1 through TRANS-3 are considered feasible for any of the cumulatively impacted roadway segments; however, historically the City has required development to pay its pro-rata share of improvement cost toward improvement on a project by project basis. All of those segments projected to operate at unacceptable levels under General Plan Buildout plus Midtown Milpitas Specific Plan Conditions would do so because no feasible mitigation measure can be implemented to increase roadway capacity. All of those roadways are already built out and cannot be widened within the existing right-of-way. The secondary impacts of widening these roadways, which include right-of-way acquisition and demolition of existing buildings, are expected to result in a greater negative impact on the environment than accommodating the additional congestion. This impact is considered significant and unavoidable.

Finding for Impact TRANS-4: The traffic generated by the project, when combined with expected traffic from other foreseeable projects, will exacerbate AM peak hour operations on five roadway segments that are anticipated to operate at unacceptable levels without the project; during the peak PM period, project-associated traffic would exacerbate congestion on eight of the

35 roadway segments that were analyzed in the Draft EIR. As described below, due to specific economic, legal. social, technological, and other considerations, reduction of the project's cumulative impacts on these roadway sections to a less-than-significant level is not feasible.

Mitigation Measures TRANS-1, TRANS-2, and TRANS-3, which require the development of a separate right-turn lane, installation of a traffic signal (or elimination of the proposed Eastern Parking Garage driveway on Main Street), and the performance of a signal warrant analysis, will reduce Impact TRANS-4, but not to a less-than-significant level. Only widening existing roadways would reduce Impact TRANS-4 to a less-than-significant level. However, widening existing roadways that would be adversely affected by the project is not feasible because these existing roadways are already built out within the existing right-of-way. Widening could not occur without the displacement of existing buildings adjacent to the roadways. Impacts resulting from roadway construction and the acquisition and displacement of existing buildings would be prohibitively expensive for the City and would result in environmental and social impacts that are more substantial than the impacts that would result from additional congestion. In addition, it is likely that the provision of additional roadway capacity would be only a short-term fix: future vehicle trips would increase congestion on the roadways, ultimately annulling the positive effects of additional capacity.

Although roadway congestion represents a substantial adverse environmental effect of the project, it may allow for greater usage of transit in the future. Roadway congestion may cause Milpitas residents and employees to seek alternative forms of transportation. In the long term, it is unlikely that the City will be able to accommodate all anticipated car trips within its existing roadway system. If additional congestion encourages greater utilization of transit, the long-term environmental effects of increased trip numbers will be reduced.

In addition, the project will reduce the number of trips on regional roads. City residents that currently drive to the Santa Clara County Health Center in San Jose will be able to use the proposed facility in Milpitas; in addition, the provision of retail uses in the vicinity of the proposed senior housing and library will allow for residents to conduct several errands via a pedestrian trip or one car trip, and may reduce the overall number of local trips. However, the project's cumulative impact to local roadway segments remains significant and unavoidable. Pursuant to Section 21081(a)(3) of the Public Resources Code, as described in the Statement of Overriding Considerations, the City has determined that this impact is acceptable based on the specific overriding considerations found in Section 8 below.

Impact AIR-2: Project-related regional emissions would exceed the BAAQMD thresholds of significance for ozone precursors.

Mitigation Measure AIR-2: The *BAAQMD CEQA Guidelines* document identifies potential mitigation measures for various types of projects. The following are considered to be feasible and effective in further reducing vehicle trip generation and resulting emissions from the project:

- Provide neighborhood-serving shops and services within or adjacent to residential development.
- Provide transit facilities (e.g., bus bulbs/turnouts, benches, shelters).
- Provide shuttle service to regional transit system or multimodal center.

- Provide shuttle service to major destinations such as employment centers, shopping centers and schools.
- Provide bicycle lanes and/or paths, connected to community-wide network.
- Provide sidewalks and/or paths, connected to adjacent land uses, transit stops, and/or community-wide network.
- Provide satellite telecommunication centers in large residential developments.
- Provide secure and conveniently located bicycle and storage for residents.
- Wire each senior housing unit to allow use of emerging electronic communication technology.
- Implement feasible TDM measures including a ride-matching program, coordination with regional ridesharing organizations and provision of transit information.

Implementation of the above mitigation measures could potentially reduce the regional vehicle emissions by up to 10 percent, but some of the measures may not be appropriate and/or feasible. Additionally, it is anticipated that the NO_X emissions would continue to exceed the BAAQMD's threshold. Therefore, the project's regional air quality impacts would remain significant.

Finding for Impact AIR-2: Emissions associated with vehicle trips generated by the project, in addition to emissions from the COGEN facility, will result in the exceedance of the BAAQMD's NO_X threshold. This impact is considered significant in the context of the regional air basin.

Implementation of trip reduction measures, such as the provision of shuttle service, secure bicycle parking, and satellite telecommunication centers (as described in Mitigation Measure AIR-2) would reduce vehicle emissions by approximately 10 percent. However, this reduction would not be sufficient to reduce NO_X emissions below the BAAQMD's threshold. Only substantially restricting private vehicle use in and around Milpitas would reduce this impact to a less-than-significant level. However, such draconian measures are not socially or politically feasible. There are no other feasible measures that would reduce vehicle emissions from the project to below the BAAQMD threshold. Pursuant to Section 21081(a)(3) of the Public Resources Code, as described in the Statement of Overriding Considerations, the City has determined that this impact is acceptable based on the specific overriding considerations found in Section 8 below.

Impact CULT-1: Implementation of the Senior Housing element of the NMSD Project would result in the relocation on-site of the DeVries Home and the demolition of the Home's contributing outbuildings and plantings.

Mitigation Measure CULT-1: Prior to any relocation on site of the DeVries Home, each of the following measures shall be completed:

- Produce a full set of HABS-style large format documentary photographs. A minimum of 20 views on 4- x 5-inch or larger format film shall be taken. The photographs shall be processed archivally, and copies of the photographs shall be deposited with the City of Milpitas, the Bancroft Library at the University of California, Berkeley; and the NWIC. The City will provide copies to the local library and the Milpitas Historical Society.

- Prepare a history of the DeVries Home that incorporates oral history, documentary research, and architectural information. The City will submit the documentation to the NWIC and provide copies to the local library and the Milpitas Historical Society.

The architectural and historical documentation shall treat the DeVries Home, the conifer trees, and the outbuildings (garage and tankhouse) as a historical complex rather than an aggregation of individual resources. The documentation shall take into account the interrelatedness of the contributing features and the home. Even with mitigation, the impacts associated with relocation of the DeVries Home would remain significant and unavoidable.

Finding for Impact CULT-1: Although the State Resources Committee recognizes that moving a historic structure is sometimes the only feasible method of preserving the resource, moving a historic building removes the structure from its landscape context and represents a significant environmental impact.

Preserving the DeVries Home on-site would preclude the construction of the Senior Housing component of the project. The DeVries Home is currently in significant disrepair; preservation of the building will require the complete replacement of its foundation. However, the Senior Housing portion of the project is necessary to provide the financing to restore the building. Therefore, if the DeVries Home is maintained on-site, the Senior Housing cannot be developed, and the DeVries Home cannot be preserved. Without financing generated by the proposed project, it is unlikely that the City or a private foundation would be able to provide adequate funding to restore the building. No alternate locations are available for construction of the Senior Housing such that all the project objectives would be realized.

Although relocating the building would remove the structure from its original historic context, the relocation would maintain the building's original orientation to North Main Street. In addition, adaptive reuse of the building would allow it to be accessible to the public. Implementation of Mitigation Measure CULT-1 will minimize the impact resulting from demolition of the DeVries Home as much as feasible through comprehensive documentation of the building's original landscape context and outbuildings, and the submission of this documentation to the Northwest Information Center and the Milpitas Historical Society. Pursuant to Section 21081(a)(3) of the Public Resources Code, as described in the Statement of Overriding Considerations, the City has determined that this significant impact is acceptable based on the specific overriding considerations found in Section 8 below.

Impact CULT-2: Construction of the library addition and the east parking garage adjacent to the Milpitas Grammar School could have an adverse impact on the school's historical integrity.

Mitigation Measure CULT-2: The design and construction of the library addition and the east parking garage shall follow the following basic design guidelines.

- The average height of the parking garage and library addition shall not exceed the roofline height of the grammar school.
- Any new structures shall not surround the grammar school on more than two sides.
- Any new structures shall have a mass and scale that is compatible with the grammar school.
- The design for the garage shall respect the school building's traditional design.

- Paint colors selected for the garage shall coordinate with those used for the school.
- If the final design meets the criteria listed above, this impact would be reduced to a less-than-significant level. If the criteria cannot be achieved, the impact would be significant and unavoidable.

Finding for Impact CULT-2: Construction of buildings adjacent to Milpitas Grammar School could compromise the historic architectural integrity of the school structure. The City finds that the design elements cannot be incorporated into the designs of the library and East Parking Garage, and that the impact to the historic integrity of the Milpitas Grammar School would be considered significant and unavoidable. However, in advance of this potential determination, and pursuant to Section 21081(a)(3) of the Public Resources Code, as described in the Statement of Overriding Considerations, the City has determined that this impact is acceptable based on the specific overriding considerations found herein in Section 8 below.

Impact CULT-4: Implementation of the Library and Eastern Parking Garage element of the NMSD Project would result in the demolition of the Winsor Blacksmith Shop.

Mitigation Measure CULT-4a: After property acquisition the City shall offer the Winsor Blacksmith Shop for purchase to be removed from the property at the buyer's expense and transferred to a new lot within Milpitas. Title to the building shall be transferred subject to a covenant that requires preservation of the building's historic features.

- Mitigation Measure CULT-4b: Should the City receive no bids for the Winsor Blacksmith Shop, or if building relocation is not feasible, the following documentation tasks shall occur:
- Produce a full set of Historic American Building Survey (HABS)-style large format documentary photographs of the Winsor Blacksmith Shop, including its contributing features. A minimum of 20 views on 4- x 5-inch or larger format film shall be taken. The photographs shall be processed archivally, and copies of the photographs shall be deposited with the City of Milpitas, the Bancroft Library at the University of California, Berkeley; and the Northwest Information Center, Rohnert Park (NWIC). The City will provide copies to the local library and the Milpitas Historical Society.
- Prepare a history of the Winsor Blacksmith Shop that incorporates oral history, documentary research, and architectural information. The City will submit the documentation to the NWIC and provide copies to the local library and the Milpitas Historical Society. .
- Prepare a brochure describing the historical and architectural qualities of the Winsor Blacksmith Shop to be made available at local libraries and museums.
- Salvage architectural elements and boards with brands from the Winsor Blacksmith Shop to incorporate into a display.

The impact associated with demolition of the Winsor Blacksmith Shop would remain significant and unavoidable.

Finding for Impact CULT-4: The Winsor Blacksmith Shop was constructed in 1926 and is considered a historic resource pursuant to CEQA because it: 1) appears eligible for listing in the California Register of Historic Places; 2) is listed in the *Register, Cultural Resources in Milpitas*;

and 3) is listed in the *Santa Clara County Heritage Resources Inventory* and the *Historic Sites Inventory of Milpitas, California*. Therefore, demolition of the building will represent a significant impact to the resource. As described below, due to specific economic, legal, social, technological, and other considerations, preservation of the Winsor Blacksmith Shop is infeasible.

Preservation of the Winsor Blacksmith Shop would require the substantial redesign of the project. This redesign could entail the removal or substantial modification of the library and Eastern Parking Garage. Removing the library would be contrary to one of the City's main objectives of providing updated library space. Further, the removal or substantial redesign of these structures could make the project infeasible. Per Mitigation Measure CULT-4, the City will offer the structure for sale, with a covenant that requires preservation of the building's historic features. If this offer is accepted, the building would be preserved in an alternate location. However, preservation of the building in a different location would still be considered a significant impact. If the City receives no bids for the structure, the building would be comprehensively documented through the production of a set of HABS-style large format documentary photographs and the preparation of a history of the building. In addition, Mitigation Measure CULT-4 requires the City to prepare a brochure describing the historical and architectural qualities of the structure and the salvage of architectural elements and boards with brands to incorporate into a display. Such mitigation will not reduce the impact of the project to the Winsor Blacksmith Shop to a less-than-significant level. However, pursuant to Section 21081(a)(3) of the Public Resources Code, as described in the Statement of Overriding Considerations, the City has determined that this impact is acceptable based on the specific overriding considerations found in Section 8 below.

SECTION 5: EFFECTS DETERMINED TO BE LESS THAN SIGNIFICANT OR NOT SIGNIFICANT

The City finds that, based upon substantial evidence in the record, as discussed below, the following impacts associated with the Project are not significant or less than significant.

5.1 Land Use and Planning

The project will result in the development of mixed uses on a site that contains vacant parcels and generates little pedestrian traffic. The new uses in the site will not preclude access to any portions of the site. Therefore, the project will not divide an established community. The increase in intensity of the project site, and the new uses that will be developed on the site will be compatible with surrounding land uses and will not adversely affect the character of adjoining neighborhoods. The project is also generally consistent with the Midtown Specific Plan, the Milpitas General Plan, and the Milpitas Zoning Ordinance. The City finds that the land use impacts that will result from implementation of the project are less-than-significant.

5.2 Population and Housing

The project is anticipated to add approximately 220 persons to the City's overall population. This population increase represents less than one percent of the City's current population and would not be considered substantial unanticipated population growth. In addition, the project site is an infill site; no infrastructure will be extended to greenfield sites resulting in additional indirect population growth. A vacant single-family bungalow and a vacant two-story apartment unit will be demolished as part of the project. The demolition of these units, which comprise a very small percentage of the

City's housing stock, will not result in the substantial displacement of housing units or people. The City finds that the population and housing impacts that will result from implementation of the project are less-than-significant.

5.3 Transportation, Circulation and Parking

Based on an analysis of expected parking demand, the project will provide adequate parking for on-site uses. The existing bus stops in the vicinity of the library will accommodate increased demand for transit that will result from the project. Therefore, the project will not adversely affect transit service. In addition, the streetscape improvements that will be implemented as part of the project will slow vehicle speeds along Main Street and will benefit the bike and pedestrian environment. The City finds that these impacts are less than significant.

5.4 Air Quality

Traffic generated by the project will increase local carbon monoxide concentrations. However, these concentrations will not exceed State and federal 1-hour or 8-hour carbon monoxide standards. In addition, population growth that will occur as part of the project is consistent with the City's General Plan and the population projections prepared by the Association of Bay Area Governments (ABAG). Therefore, the project will not conflict with the Bay Area Clean Air Plan (CAP). No new odor sources are proposed as part of the project, and the project will not expose site occupants to substantial odors. The City finds that these impacts are less than significant.

5.5. Noise

Because the project site is located approximately 5 miles northeast of San Jose International Airport, and is not in the vicinity of a private airstrip, it is not exposed to substantial air traffic-related noise. The City finds that these impacts are less than significant.

5.6 Hydrology and Water Quality

Implementation of the proposed project will not contribute to depletion of groundwater supplies or reduce the amount or quality of water available for public water supplies. The proposed project does not include development that will substantially alter a natural water course. In addition, the amount of impervious surfaces within the project site will not be substantially altered as part of the project. Existing flood hazards at the site are not expected to result in significant risks to human health or property and are mitigated by existing federal and City programs. No risks of inundation by seiche, tsunami, extreme high tides, and/or sea level rise are present at the project site. The City finds that these impacts are less than significant.

5.7 Hazards

The project will not result in significant hazardous materials impacts associated with the routine transport, use, or disposal of significant quantities of hazardous materials. Although future retail and commercial businesses at the project site are not known, the applicable land use designations generally do not provide for substantial hazardous materials. Any businesses that may transport, use, or dispose of hazardous materials will be subject to existing hazardous materials regulations, such as those implemented at the project site by SCCDEH and Milpitas Fire Department. The project site is not located within an airport land use plan area; therefore, the project will not expose future site occupants to airport-related hazards. Project improvements are not expected to impair the

implementation or interfere with the City's Multi-Hazard Emergency Plan. The City finds that these impacts are less than significant.

5.8 Cultural and Paleontological Resources

Development of the Eastern Parking Garage will result in the demolition of the Dutra Home and the buildings located at 130, 110, and 94 Winsor Avenue. Based on a historical resources evaluation conducted by Page and Turnbull in 2004, these buildings are not considered significant resources pursuant to CEQA. Therefore, the demolition of these structures is not considered a significant impact to historic architectural resources. The City finds that these impacts are less-than-significant.

5.9 Aesthetic Resources

The project site is currently characterized by vacant lots, tow yards, and storage yards. Although the project will change the visual character of the site, the visual character will not be degraded. New development within the project site will undergo design review by the City, to ensure that it is architecturally compatible with surrounding buildings. The project will result in development that will block select views of hills to the east of the project site. However, these views are already partially blocked by existing development. The project's contribution to the additional blockage of views will be minimal. In addition, the project will not substantially adversely affect views from Interstate 680. The City finds that these impacts are less than significant.

5.10 Agricultural Resources

As shown in Figure 4-3 of the Milpitas General Plan, there is no farmland, as defined by the Farmland Mapping and Monitoring Plan (FMMP), in or immediately adjacent to the project site. Additionally, no area around the project site is currently being used for crop production. Therefore, the City finds that the project will not adversely affect agricultural resources.

5.11 Biological Resources

The project site is largely developed, but does contain some vacant fields. These fields do not contain any significant vegetation. According to the Milpitas General Plan, a March 1994 search of the California Natural Diversity Data Base (CNDDB) established the known presence of only one endangered species (the salt marsh harvest mouse) and one "species of special concern" (the golden eagle) in the Planning Area. Neither of these species has been identified as a species that potentially occurs in the project site. In addition, in 1994 the California Native Plant Society's (CNPS) *Inventory of Rare and Endangered Vascular Plants of California* was consulted for potentially endangered plant species within the vicinity of the project site. The alkali milk vetch was listed by the CNPS as having been found in an area adjacent to the project site. While the CNDDB lists the alkali milk vetch as existing, the last sighting of this plant was in 1905. Therefore, the City finds that the project will not adversely affect biological resources.

5.12 Geology, Soils and Seismicity

Due to the flat topography of the project site, the area is not subject to landslides or lateral spreading. The project site, as is the case with most of the San Francisco Bay Area, is subject to ground shaking associated with earthquakes, and the soils in many parts of Milpitas are susceptible to liquefaction. However, risks to human health and building integrity will be minimized via adherence to the

applicable building code. Therefore, the City finds that the project will not result in significant geology-related impacts.

5.13 Mineral Resources

As is noted in the Milpitas General Plan, there are four areas within the Planning Area that contain mineral resources. These four areas are currently being mined. There are no identified mineral resources within the project site. Therefore, the City finds that the project will not affect the availability of a known mineral resource.

5.14 Energy

Land uses that will be developed within the project site are more intensive than existing on-site uses, and will therefore use more energy. However, all new development will be required to incorporate energy conservation measures in compliance with Title 24 and the Uniform Building Code. In addition, the proposed project will include a COGEN component that will reduce the overall energy demand of the project site. Therefore, the City finds that the project will not substantially affect the use of energy resources.

5.15 Public Services, Utilities and Recreation

The proposed project falls within the Midtown area of Milpitas. The provision of public services, utilities and recreational facilities within the Milpitas Midtown area are discussed in the Milpitas Midtown Specific Plan. The Specific Plan anticipates increased population within the Midtown area. Potential impacts related to the provision of public services, utilities and recreational facilities are discussed in the Midtown Milpitas Specific Plan EIR. The project complies with the standards for public services, utilities, and recreation discussed in the Specific Plan. Therefore, the City finds that the project will not result in significant impacts to public services, utilities, or recreation.

SECTION 6: SIGNIFICANT CUMULATIVE EFFECTS

The cumulative analysis in the Draft EIR utilizes a list of projects considered likely to occur under buildout of the General Plan and the Midtown Specific Plan. Because the project is an infill project that will be constructed on a brownfield site in Milpitas, many of the cumulative effects associated with the project are beneficial. The following discussion describes potential cumulative impacts associated with the project and the City's findings regarding these impacts.

6.1 Land Use and Planning Policy

The proposed project is one of several projects that are currently in the planning process or under construction in the City of Milpitas. The proposed project will contribute to a higher density in the area, and will enhance the mixture of uses along North Main Street, as anticipated in the General Plan. Because the proposed project is generally consistent with adopted plans and the overall vision for North Main Street, this contribution is not considered a cumulatively significant land use impact. Therefore, the City finds that the project will not result in significant short-term or long-term cumulative land use impacts.

6.2 Population and Housing

The proposed project will add approximately 110 affordable senior housing units and one manager's unit to the existing housing stock in the City of Milpitas. As described in Section IV.B, Population and Housing, of the Draft EIR, the project will increase the population of the City of Milpitas by approximately 220 residents. This represents less than 1 percent of the City's current population, and approximately 2 percent of the population growth expected by 2010. Therefore, the City finds that the project will not create substantial unanticipated population or housing growth, or other adverse cumulative short-term or long-term impacts related to population or housing.

6.3 Transportation, Circulation and Parking

The addition of traffic from the proposed project under cumulative conditions will significantly exacerbate AM and PM peak hour operations on several of the study roadway segments that are projected to operate at unacceptable levels under General Plan buildout plus Midtown Milpitas Specific Plan conditions. The City finds that this cumulative impact is significant and unavoidable but is acceptable based on the specific overriding considerations found herein in Section 8. Specific economic, legal, social, technological, or other considerations make the mitigation of this impact to a less-than-significant level infeasible.

6.4 Air Quality

A number of individual projects in the Milpitas area may be under construction simultaneously with the proposed project. Depending on construction schedules and actual implementation of projects in the area, generation of fugitive dust and pollutant emissions during construction may result in substantial short-term increases in air pollutants. This would be a contribution to short-term cumulative air quality impacts. However, each individual project would be subject to applicable BAAQMD rules and regulations, and other mitigation requirements during construction process.

Currently, the air basin is under non-attainment for PM_{10} and O_3. Construction of the proposed project, in conjunction with other planned developments within the cumulative study area and the subregion, will contribute to the existing non-attainment status. Thus, the proposed project will exacerbate nonattainment of air quality standards within the subregion and Basin and contribute to adverse cumulative air quality impacts. The City finds that this cumulative impact to regional air quality is significant and unavoidable but is acceptable based on the specific overriding considerations found herein in Section 8. Specific economic, legal, social, technological, or other considerations make the mitigation of this impact to a less-than-significant level infeasible.

6.5 Noise

Implementation of the proposed project and cumulative projects will result in noise increases in Milpitas due to construction-period activity and increased traffic on City streets. However, noise increases associated with construction of the proposed project will be reduced to a less-than-significant level through implementation of Mitigation Measure NOISE-1, which will restrict construction activities to daytime hours and require the project sponsor to develop and implement a site-specific noise reduction program. It is anticipated that the cumulative projects in Milpitas will incorporate these standard noise-reduction measures and that the project construction will not result in substantial adverse cumulative noise impacts. Therefore, the City finds that the project's contribution to traffic-related noise is not considered significant at the project or cumulative level.

6.6 Hydrology and Water Quality

Cumulative development from projects within Milpitas, as well as the various components of the project, will increase the level of urbanization within the city. Urban development usually results in an increase in the volume and rate of runoff due to reduced percolation of surface water and smoother and more impervious ground surfaces. However, the Milpitas Midtown Specific Plan EIR, which analyzes the impacts associated with the development plan for a 942-acre Midtown area of Milpitas, does not identify any significant cumulative hydrology impacts.

The current storm drainage system in the City of Milpitas is undersized and significant storms result in nuisance flooding in streets and at drainage inlets during storm events. Several proposed improvements to the storm drainage system in the project vicinity were described in the Midtown Milpitas Specific Plan. These improvements included widening the Ford Creek channel, adding higher capacity outfalls and culverts at Railroad Avenue and Calaveras Boulevard, and constructing additional storm drainage pipes at Abel Street. However, the primary capacity issues in the City storm drainage system are "upstream" of the project site; therefore, localized flooding will likely occur even if all the proposed project area improvements were implemented. Therefore, the City finds that the project will result in significant cumulative hydrology and water quality impacts.

6.7 Hazards

The proposed project will not result in cumulative impacts related to hazards. Implementation of the proposed project will help to ensure that existing hazardous materials contamination on the project site is fully remediated. While the additional cumulative land uses on the various cumulative project sites may involve the use or storage of hazardous materials and waste, these activities are regulated by existing laws designed to prevent unacceptable health risks. Therefore, the City finds that the project will not result in significant hazards-related cumulative impacts.

6.8 Cultural and Paleontological Resources

Construction activities associated with the proposed project and cumulative projects could result in significant impacts to unidentified archaeological and paleontological resources, and human remains. However, like the proposed project, the cumulative projects would be subject to extensive mitigation measures designed to protect unidentified cultural and paleontological resources. Such mitigation would include the preparation and implementation of an archaeological resources monitoring plan and ensuring that the recovery of human remains is reported to the proper authorities. The proposed project will result in the demolition of one significant historic architectural resources: the Winsor Blacksmith Shop. No other historic structures are known to be proposed for demolition as part of anticipated cumulative development. Therefore, the City finds that the project will not contribute to any significant cumulative historic resource impacts.

6.9 Aesthetic Resources

Implementation of the proposed project will not result in any significant cumulative aesthetic impacts. The area surrounding the project site is largely developed, and the proposed project will be developed with uses that will be subject to design standards set forth in the General Plan and Midtown Specific Plan. Therefore, the City finds that the project will not result in significant cumulative impacts to aesthetic resources.

SECTION 7: FEASIBILITY OF PROJECT ALTERNATIVES

7.1 Project Alternatives

The Draft EIR included three alternatives: the No Project/No Build Alternative, the Reduced Build Alternative, and the Senior Center Alternative. The City Council hereby concludes that the Draft EIR sets forth a reasonable range of alternatives to the North Main Street Development Project so as to foster informed public participation and informed decision making. The City Council finds that the alternatives identified and described in the Draft EIR were considered and further finds them to be infeasible for the specific economic, social, or other considerations set forth below pursuant to CEQA section 21081(c).

7.1.1 No Project/No Build Alternative. The No Project/No Build alternative assumes that the project site would not be subject to development, and would generally remain in its existing condition. All existing structures would remain on the project site, and the existing land uses would stay the same. The DeVries Home and the Milpitas Grammar School building would remain vacant, the two parcels west of North Main Street would not be developed, and the businesses on Winsor Avenue would remain.

Findings. The No Project/No Build alternative would not would not achieve the key objectives of the project, including: the development of underutilized parcels within the project site; the improvement of local circulation and the encouragement of pedestrian activity; the further implementation of the Midtown Specific Plan and General Plan; the aggregation of land uses to spur future development; the development of a new library, comprising 60,000 square feet, to better serve existing patrons; the provision of affordable housing to local seniors; the provision of health facilities that are easily accessible by local residents; the provision of retail and meeting space within the project site; and the provision of energy generator/backup power to project facilities.

The alternative would not result in the significant unavoidable environmental impacts resulting from the project. However, the No Project/No Build alternative would not be consistent with several local planning goals and policy documents, which seek to redevelop the Midtown district of Milpitas with mixed and transit-oriented uses. In addition, the alternative would not realize many of the beneficial effects of the project, including the redevelopment of underutilized parcels, expansion of the City's affordable housing stock, development of a locally-available health care facility, and development of a new library. Therefore, the City rejects the No Project/No Build alternative.

7.1.2 Reduced Build Alternative. The Reduced Build alternative would keep all the components of the NMSD Project, but would reduce the square footage of the senior housing and health facility and associated parking. The square footage of the Library project would remain the same. The square footage of the parking garage next to the library would be reduced by one-third, to a two-story structure and 120,000 square feet. No retail would be located in the area proposed for the parking structure. The Winsor Blacksmith Shop and the Dutra Home would still be demolished.

The Senior Housing Complex would be built, but the size would be reduced by 25 percent, which would result in 75 units (one bedroom units) and one manager's unit, to total 80,025 square feet in a

three-story building. The DeVries Home would stay at its current location and not be rehabilitated. Parking would be provided at the 0.7 ratio, and 53 spaces would be provided on-site.

The County Health Facility square footage would be reduced by 20 percent, to result in a two-story, 48,000 square foot building. All uses proposed for the garage adjacent to Calaveras Boulevard would also be reduced by 20 percent, which would result in 10,000 square feet of retail space, 20,000 square feet of assembly space, and 73,200 square feet of parking to total 114,000 square feet. This would be a five-story structure, rather than six stories proposed by the project.

Findings. The Reduced Build alternative, which would retain all the key components of the project, would achieve most of the objectives of the project (although often to a lesser degree than the project), including the provision of additional library space, affordable housing for seniors, and a locally-available health care facility for Milpitas residents. In addition, two significant unavoidable impacts that would result from the project would not result from implementation of the alternative: the alternative would not result in significant emissions of NO_X that would affect regional air quality and would preserve the DeVries Home in its current location. However, the DeVries Home would not be rehabilitated, and the alternative would not allow for the construction of parking that is adequate to serve multiple uses in and around the project site. The City finds that approximately 765 parking spaces will be required to serve these uses. A decision not to build the parking structure to its originally-proposed size (and the consequent availability of fewer parking spaces than would be available as part of the project) would substantially compromise the ability of the alternative to accommodate visitors, and would restrict vehicle access to surrounding uses. In addition, the alternative would reduce the size of the senior housing facility, limiting the overall availability of affordable housing to seniors, a demographic group that is currently underserved by affordable housing. Therefore, the City rejects the Reduced Build Alternative.

7.1.3 Senior Center Alternative. The Senior Center alternative would allow the Milpitas Grammar School, which is currently vacant, to house the Milpitas Senior Center. The building would be slightly expanded by 1,500 square feet to accommodate a kitchen. Weller Lane and parts of Winsor Avenue would be abandoned to accommodate surface parking spaces. Under this alternative, no parking structure would be constructed adjacent to the Milpitas Grammar School building, and Winsor Blacksmith Shop and the Dutra Home would remain on-site. The senior housing complex, the county health facility, and the parking structure adjacent to Calaveras Boulevard would all remain the same as the proposed project.

Findings. The Senior Center alternative would achieve many of the stated objectives of the project, including the development of affordable housing for seniors, development of a locally-accessible health care facility for Milpitas residents, and better utilization of vacant parcels and lots. In addition, the alternative would not result in some of the significant unavoidable impacts to roadway segments that would result from the project. The alternative would also not result in the significant unavoidable NO_X emissions, and impacts to the historic integrity of the Milpitas Grammar School, Winsor Blacksmith Shop, and Dutra Home that would result from the project. However, the alternative would not achieve one key objective of the project: the development of 60,000 square feet of library space to replace the current library, which is crowded and does not offer its patrons adequate educational facilities. In addition, the alternative would not result in the construction of one of the two parking facilities proposed as part of the project. The alternative would thus not provide adequate parking for on- and off-site uses. Therefore, the City rejects the Senior Center alternative.

7.2 Environmentally Superior Alternative

Section 15126.6(e)(2) of the *CEQA Guidelines* requires that an environmentally superior alternative be identified among the selected alternatives. Furthermore, if the No Project Alternative is identified as environmentally superior, CEQA directs the lead agency to identify another environmentally superior alternative from the remaining alternatives.

Of the three alternatives analyzed above, the No Project/No Build alternative would avoid most of the impacts that would result from implementation of the proposed project, including impacts related to cultural resources, transportation, and noise. Because the No Project/No Build alternative would not result in construction, no significant and unavoidable impacts would result. However, this alternative would not meet the majority of the project objectives. It would also not realize several of the beneficial impacts associated with the project, the Reduced Build alternative, and the Senior Center alternative, including the enhancement of community integrity, the development of an infill mixed-use project, and addition to the City's affordable housing stock. Each of these alternatives would also preserve a portion of the historic resources that would be impacted by the project. The remaining impacts would be very similar to the project impacts, but could be mitigated to a less-than-significant level.

Development of either the Reduced Build or Senior Center alternatives would not result in any increased or additional physical impacts beyond those identified for the proposed project. Therefore, each of these alternatives do have elements that are environmentally superior to the proposed project. However, implementation of either alternative would not fully achieve the identified project objectives.

Findings. The City finds that the Reduced Build and Senior Center alternatives would meet many of the objectives of the project and are both environmentally superior to the project. However, specific economic, legal, social, technological, or other considerations make these alternatives infeasible, as set forth in Section 7.1, above. Therefore, the City rejects these alternatives, and further adopts the specific overriding considerations found in Section 8.

SECTION 8: STATEMENT OF OVERRIDING CONSIDERATIONS

CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a project against its unavoidable risks when determining whether to approve a project. If the specific economic, legal, social, technological or other benefits of the project outweigh the unavoidable adverse environmental effects, those effects may be considered acceptable.[4] CEQA requires the agency to support, in writing, the specific reasons for considering a project acceptable when significant impacts are not avoided or substantially lessened. Those reasons must be based on substantial evidence in the EIR or elsewhere in the administrative record.[5] In accordance with the requirements of CEQA and the *CEQA Guidelines*, the City finds that the mitigation measures identified in the Final EIR and the Mitigation Monitoring and Reporting Program, when

[4] *CEQA Guidelines*, Section 15093(a)

[5] *CEQA Guidelines*, Section 15093(b)

implemented, avoid or substantially lessen virtually all of the significant effects identified in the Draft and Final EIR. Nonetheless, five significant impacts of the project (including one impact that may be less than significant if the proposed mitigation measure is determined to be feasible) are unavoidable even after incorporation of all feasible mitigation measures. These significant unavoidable impacts are identified and discussed in Section 4 of these Findings. The City further specifically finds that notwithstanding the disclosure of these significant unavoidable impacts, there are specific overriding economic, legal, social, and other reasons for approving this project. Those reasons are as follows:

a. Implementation of the project will result in the development of a new library that will be better able to offer educational services to its patrons, and will be better able to accommodate its expanding collection than the current library.

b. Implementation of the project will result in the construction of senior housing that will provide housing for very low-income and extremely low-income seniors, a demographic group that is currently underserved by affordable housing.

c. Implementation of the project will allow for the development of the Santa Clara Valley Health Center Project, which will allow residents of Milpitas to access medical services close to home and reduce impacts to San Jose clinics currently used by Milpitas residents.

d. The streetscape improvements and new land uses that will be developed as part of the project will revitalize Midtown Milpitas.

e. Development of the project will promote economic development in Milpitas and Santa Clara County as a whole. Construction of the project will provide construction jobs in the short term and jobs related to operation of the project in the long term.

f. The project promotes the policies of local plans, which seek to create a vibrant, mixed-use, transit-oriented district in Midtown Milpitas, consistent with the General Plan and Midtown Specific Plan.

g. The project uses land resources efficiently, by accumulating small parcels to support infill development that takes advantage of nearby transit facilities.

h. The project provides an opportunity for adaptive re-use of the historic grammar school and the DeVries Home, both of which are currently in a state of physical decline.

On balance, the City finds that there are specific considerations associated with the project that serve to override and outweigh the project's significant unavoidable effects. Therefore, pursuant to *CEQA Guidelines* Section 15093(b), the adverse effects of the project are considered acceptable.

ATTACHMENT B
MITIGATION MONITORING AND REPORTING PROGRAM

This Mitigation Monitoring and Reporting Program (MMRP) lists the impacts and mitigation measures identified in the North Main Street Projects EIR. The MMRP lists the mitigation measures recommended in the EIR for the proposed projects and identifies monitoring responsibility and a schedule for implementation. Monitoring and reporting details are only provided for mitigation measures necessary to avoid or reduce significant impacts of the project.

Table 1 presents the mitigation measures identified for the proposed project. Each mitigation measure is numbered with a symbol indicating the topical section to which it pertains, a hyphen, and the impact number. For example, CULT-3 is the third mitigation measure identified in the Cultural and Paleontological Resources analysis.

The first and second columns of Table 1 provide the significant impacts and corresponding mitigation measure(s) as identified in Chapter IV of the Draft EIR for the proposed project. The third column, "Monitoring Responsibility," identifies the party(ies) responsible for carrying out the required action(s). The fourth column, "Schedule for Implementing Mitigation Measure," identifies the parties(ies) ultimately responsible for ensuring that the mitigation measure is implemented and outlines the steps for monitoring the action identified in the mitigation measure and the approximate timeframe for the oversight agency to ensure implementation of the mitigation measure.

Table 1: Mitigation Monitoring and Reporting Program

Environmental Impacts	Mitigation Measures	Monitoring Responsibility	Schedule for Implementing Mitigation Measure
C. Transportation, Circulation and Parking			
TRANS-1: Implementation of the proposed NMSD Project would result in a significant traffic impact at the intersection of Abel Street/Marylinn Drive in the PM peak hour.	TRANS-1: A separate northbound right-turn lane shall be installed and an overlap phase shall be implemented for a westbound right-turn lane prior to occupancy of the new library. The lane additions will require some right-of-way acquisition from a parking lot located on the southeast corner of the intersection. In addition, provision of westbound overlap phase would preclude southbound U-turns at this intersection. This mitigation would provide LOS D or better. This mitigation measure would reduce the impact at this intersection to a less-than-significant level.	Project Traffic Engineer: Revise project plans to include a separate northbound right turn lane at the Abel Street/Marylinn Drive.	Prior to approval of final design of the project.
TRANS-2: Implementation of the proposed NMSD Project would result in a significant traffic impact at the intersection of Main Street/Calaveras Boulevard (SR 237) Off-Ramp in the PM peak hour.	TRANS-2: Either of the following mitigation measures shall be implemented to mitigate this impact to a less-than-significant level. (a) Installation of a traffic signal shall be investigated by City of Milpitas at the intersection and a separate southbound left-turn lane shall be installed on Main Street. If the City determines that a traffic signal is warranted, the developers shall pay a "fair share" cost towards the construction of the signal. The "fair share" cost will be determined by the City based on the magnitude of the project impacts (b) An *alternative mitigation* that could alleviate this impact is elimination of the proposed Eastern Parking Garage driveway on Main Street. The intersection would operate under LOS C without the driveway. With this mitigation, the intersection of Main Street/Weller Lane would still operate under acceptable LOS. This mitigation would exacerbate the need for a traffic signal at the South Main Street/Carlos Street/ Calaveras Boulevard On-Ramp intersection (see Impact TRANS-3). Implementation of either mitigation measure (a) or (b) would mitigate this impact to a less-than-significant level.	Project Traffic Engineer: Consult with City to identify preferred mitigation alternative, and revise site plan as appropriate.	Prior to approval of final design of the project.

Table 1 *continued*

Environmental Impacts	Mitigation Measures	Monitoring Responsibility	Schedule for Implementing Mitigation Measure
TRANS-3: Implementation of the proposed NMSD Project would result in a significant traffic impact at the intersection of South Main Street/Carlo Street/Calaveras Boulevard (SR 237) On-Ramp in the PM peak hour.	TRANS-3: The City shall perform a complete signal warrant analysis at this location. If the City determines that a traffic signal is warranted, the developers shall pay a "fair share" cost towards the construction of the signal. The "fair share" cost is to be determined by the City based on the magnitude of the project impacts. Implementation of a traffic signal would mitigate this impact to a less-than-significant level.	City Traffic Engineer: Perform a complete signal warrant analysis at this location and determine if traffic signal is warranted and if developers must pay "fair share" cost towards construction of the signal.	Prior to approval of final design of the project.
TRANS-4: The addition of traffic from the NMSD Project under Cumulative Conditions would significantly exacerbate AM peak hour operations on five roadway segments that are projected to operate at unacceptable levels without the project. During the PM peak hour, the NMSD Project is expected to significantly exacerbate operation on eight of the 35 study roadway segments. These changes are considered a significant impact.	TRANS-4: The City of Milpitas has planned to upgrade traffic signal interconnect and coordination along Calaveras Boulevard. Although this improvement would not reduce the project impacts to a less-than-significant level, it would reduce some congestion and improve traffic flow along Calaveras Boulevard.	*This impact was identified as significant and unavoidable. When feasible, the City should upgrade the traffic signal interconnect and coordination to help minimize this impact.*	
D. Air Quality			
AIR-1: Activities associated with demolition, site preparation and construction would generate short-term emissions of criteria pollutants, including suspended and inhaleable particulate matter and equipment exhaust emissions.	AIR-1: Implementation of the following mitigation measures would reduce this impact to a less-than-significant level. • The basic and enhanced control measures listed in Table IV.D-8 shall be implemented during construction of the proposed project. • Any temporary haul roads to the soil stockpile area shall be routed away from existing neighboring land uses. Any temporary haul roads shall be surfaced with gravel and/or regularly watered to control dust or treated with an appropriate dust suppressant. • Water sprays shall be utilized to control dust when material is being added or removed from the stockpile. When the stockpile is undisturbed for more than one week, the storage pile shall be treated with a dust suppressant or crusting agent to eliminate wind-blown dust generation.	Construction Manager: Ensure each of the control measures and other measure are appropriately implemented throughout the construction period.	During demolition, grading and construction.

Table 1 *continued*

Environmental Impacts	Mitigation Measures	Monitoring Responsibility	Schedule for Implementing Mitigation Measure
AIR-1 *continued*	• All neighboring properties located within 500 feet of property lines shall be provided with the name and phone number of a designated construction dust control coordinator who will respond to complaints within 24 hours by suspending dust-producing activities or providing additional personnel or equipment for dust control as deemed necessary. The phone number of the BAAQMD pollution complaints contact shall also be provided. The dust control coordinator shall be on-call during construction hours. The coordinator shall keep a log of complaints received and remedial actions taken in response. This log shall be made available to City staff upon its request. The above mitigation measures include all feasible measures for construction emissions identified by the BAAQMD. According to the District's threshold of significance for construction impacts, implementation of the measures would reduce construction impacts of the proposed project to a less-than-significant level.		
AIR-2: Project-related regional emissions would exceed the BAAQMD thresholds of significance for ozone precursors.	AIR-2: The *BAAQMD CEQA Guidelines* document identifies potential mitigation measures for various types of projects. The following are considered to be feasible and effective in further reducing vehicle trip generation and resulting emissions from the project: • Provide neighborhood-serving shops and services within or adjacent to residential development. • Provide transit facilities (e.g., bus bulbs/turnouts, benches, shelters). • Provide shuttle service to regional transit system or multimodal center. • Provide shuttle service to major destinations such as employment centers, shopping centers and schools. • Provide bicycle lanes and/or paths, connected to community-wide network.	*This impact was identified as significant and unavoidable. When feasible, the City should implement the identified mitigation measures to help minimize this impact.*	

Table 1 *continued*

Environmental Impacts	Mitigation Measures	Monitoring Responsibility	Schedule for Implementing Mitigation Measure
AIR-2 *continued*	• Provide sidewalks and/or paths, connected to adjacent land uses, transit stops, and/or community-wide network. • Provide satellite telecommunication centers in large residential developments. • Provide secure and conveniently located bicycle and storage for residents. • Wire each senior housing unit to allow use of emerging electronic communication technology. • Implement feasible TDM measures including a ride-matching program, coordination with regional ridesharing organizations and provision of transit information. Implementation of the above mitigation measures could potentially reduce the regional vehicle emissions by up to 10 percent, but some of the measures may not be appropriate and/or feasible. Additionally, it is anticipated that the NO_X emissions would continue to exceed the BAAQMD's threshold. Therefore, the project's regional air quality impacts would remain significant.		
E. Noise			
NOISE-1: Noise levels from construction activities may range up to 96 dBA L_{max} at the nearest land uses to the construction site for limited time periods during the duration of construction for certain activities such as pile driving or the use of other heavy equipment.	NOISE-1: The following measures shall be implemented during construction of each of the proposed projects: (a) Standard construction activities shall be limited to between 7:00 a.m. and 7:00 p.m. No construction activities that exceed City standards shall be allowed on federal holidays. (b) To reduce daytime noise impacts due to construction, to the maximum feasible extent, the City shall require the applicant to develop a site-specific noise reduction program, subject to city review and approval, which includes the following measures:	Construction Manager: Ensure that each of these measures are implemented.	During demolition, grading and construction.

Table 1 *continued*

Environmental Impacts	Mitigation Measures	Monitoring Responsibility	Schedule for Implementing Mitigation Measure
NOISE-1 *continued*	• Signs shall be posted at the construction site that include permitted construction days and hours, a day and evening contact number for the job site, and a day and evening contact number for the City in the event of problems; • An on-site complaint and enforcement manager shall be posted to respond to and track complaints; • A pre-construction meeting shall be held with the job inspectors and the general contractor/on-site project manager to confirm that noise mitigation and practices are completed and in place prior to the issuance of a building permit (including construction hours, neighborhood notification, posted signs, etc.); • Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds, wherever feasible); • Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed-air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed-air exhaust shall be used; this muffler can lower noise levels where feasible, which could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever feasible; and • Stationary noise sources shall be located as far from sensitive receptors as possible, and they shall be muffled and enclosed within temporary sheds, or insulation barriers or other measures shall be incorporated to the extent feasible.		

Table 1 *continued*

Environmental Impacts	Mitigation Measures	Monitoring Responsibility	Schedule for Implementing Mitigation Measure
NOISE-1 *continued*	Construction period impacts would still occur with implementation of the measures detailed above. However, because they would be short-term in duration, and the construction activities will restricted to the hours listed in the Noise Ordinance, the City considers this a less-than-significant impact.		
NOISE-2. Train related noise from the Union Pacific Transportation Railroad rail line could impact the proposed library, health center, and senior housing located nearby.	NOISE-2. To meet the City's noise standards the following mitigation measures shall be incorporated: • Building façade upgrades would be required for the library to meet the 45 dBA L_{dn} interior noise standard. The exterior wall of the proposed library shall be constructed to meet a Sound Transmission Class (STC) of 39 dBA. Once constructed, this wall assembly would provide a minimum of 36 dBA of noise attenuation. These façade upgrades or others would reduce the interior noise level to 45 dBA L_{dn} or less (81 dBA – 36 dBA = 45 dBA). • To achieve the indoor fresh-air ventilation requirements specified in Chapter 35 of the Uniform Building Code, the library, medical clinic, banquet facility, and the multifamily residences would require mechanical ventilation to ensure that windows can remain closed for a prolonged period of time. Implementation of the above mitigation measure would reduce the impact to a less-than-significant level.	Architect and Construction Manager: Ensure that these measures are incorporated into the building design and implemented during construction.	Prior to issuance of a building permit and during construction of each individual project.
NOISE-3: Local traffic would generate long-term noise levels exceeding *Normally Acceptable* and *Conditionally Acceptable* noise levels within the vicinity of the NMSD Project site.	NOISE-3: To meet the City's interior noise standards the following mitigation measures shall be incorporated: • To achieve the indoor fresh-air ventilation requirements specified in Chapter 35 of the Uniform Building Code, the senior housing, the library, the medical clinic, and the retail/banquet facility will require mechanical ventilation to ensure that windows can remain closed for a prolonged period of time. Implementation of the above mitigation measure would ensure that acceptable noise levels are achieved and reduce the impact to a less-than-significant level.	Construction Manager: Ensure indoor ventilation is installed.	Prior to building occupancy.

Table 1 *continued*

Environmental Impacts	Mitigation Measures	Monitoring Responsibility	Schedule for Implementing Mitigation Measure
NOISE-4: Train related vibration from the Union Pacific Transportation Railroad rail line could impact the proposed library.	NOISE-4: To reduce the vibration impact on the proposed project site, the following mitigation measure shall be incorporated: • Prior to obtaining a building permit, the project applicant shall conduct a detailed analysis of the vibration generated by the existing railroad tracks at the proposed library site. Mitigation measures such as vibration isolation shall be incorporated into the project design if necessary. Implementation of the above mitigation measure would ensure that acceptable vibration levels are achieved and reduce the impact to a less-than-significant level.	Project Applicant and Architect: Complete vibration analysis and incorporate appropriate vibration isolation components into final site plan.	Prior to issuance of a building permit for each individual project.
F. Hydrology and Water Quality			
HYD-1: Construction activities and post-construction site uses associated with the development of each element of the NMSD Project could result in degradation of surface water quality by reducing the quality of stormwater runoff.	HYD-1: Implementation of both of the following mitigation measures would reduce the level of significance of this impact to a less-than-significant level: (a) Each project proponent shall prepare a SWPPP designed to reduce potential degradation impacts to surface water quality through the construction period of the project. It is not required that the SWPPP be submitted to the RWQCB, but the SWPPP must be maintained on-site and made available to RWQCB staff upon request. The SWPPP shall include specific and detailed BMPs designed to mitigate construction-related pollutants. At minimum, BMPs shall include practices to minimize the contact of construction materials, equipment, and maintenance supplies (e.g., fuels, lubricants, paints, solvents, adhesives) with stormwater. The SWPPP shall specify properly designed centralized storage areas that keep these materials out of the rain.	Project Civil Engineer: Ensure that BMPs have been incorporated into project design. Construction Manager: Ensure that SWPPP has been completed and is available on-site.	Prior to issuance of a demolition, grading or building permit for each individual project.

Table 1 *continued*

Environmental Impacts	Mitigation Measures	Monitoring Responsibility	Schedule for Implementing Mitigation Measure
HYD-1 *continued*	An important component of the stormwater quality protection effort is the knowledge of the site supervisors and workers. To educate on-site personnel and maintain awareness of the importance of stormwater quality protection, site supervisors shall conduct regular tailgate meetings to discuss pollution prevention. The frequency of the meetings and required personnel attendance list shall be specified in the SWPPP. BMPs designed to reduce erosion of exposed soil may include, but are not limited to: soil stabilization controls, watering for dust control, perimeter silt fences, placement of hay bales, and sediment basins. The potential for erosion is generally increased if grading is performed during the rainy season as disturbed soil can be exposed to rainfall and storm runoff. If grading must be conducted during the rainy season, the primary BMPs selected shall focus on erosion control, that is, keeping sediment on the site. End-of-pipe sediment control measures (e.g., basins and traps) shall be used only as secondary measures. If hydroseeding is selected as the primary soil stabilization method, then these areas shall be seeded by September 1 and irrigated as necessary to ensure that adequate root development has occurred prior to October 1. Entry and egress from the construction site shall be carefully controlled to minimize off-site tracking of sediment. Vehicle and equipment wash-down facilities shall be designed to be accessible and functional during both dry and wet conditions.		

Table 1 *continued*

Environmental Impacts	Mitigation Measures	Monitoring Responsibility	Schedule for Implementing Mitigation Measure
HYD-1 *continued*	(b) Post-construction, the City shall ensure that design of each project element includes features and operational Best Management Practices to reduce potential impacts to surface water quality associated with operation of the project to the best extent practicable. These features shall be included in the drainage plan and final development drawings for each project element. Specifically, the final design may include measures designed to mitigate potential water quality degradation of runoff from all portions of the completed development. In general, passive, low-maintenance BMPs (e.g., grassy swales, porous pavements) are preferred over active filtering or treatment systems. If the design includes higher maintenance BMPs (e.g., sedimentation basins, hydrocarbon interceptors), then a maintenance plan shall be developed and implemented to inspect and maintain these features. The NMSD Projects shall comply with the C3 provisions of the City of Milpitas NPDES Permit. These projects may be eligible for a partial waiver under the City's Stormwater C.3 waiver program. The City of Milpitas shall ensure that the SWPPP and drainage plan are prepared and adequate prior to approval of the grading plan.		

Table 1 *continued*

Environmental Impacts	Mitigation Measures	Monitoring Responsibility	Schedule for Implementing Mitigation Measure
HYD-2: Implementation of the NMSD Project could exacerbate existing drainage and localized flooding problems.	HYD-2: The City shall retain a qualified engineer to prepare a drainage plan for the proposed project improvements in accordance with the City's general Conditions of Approval requirements. As a condition of approval of the final grading and drainage plans for each element of the NMSD Project, it must be demonstrated that implementation of the proposed drainage plans would not exceed the capacity of project area drainage facilities and the project will conform to FEMA requirements for development in floodplains. A storm drain maintenance plan that includes annual inspections of any bioswales, sedimentation basins, drainage ditches, and drainage inlets, and prompt removals of sediments and debris, as necessary, shall be submitted with the drainage plan. The grading and drainage plans shall be reviewed for compliance with these requirements by the City of Milpitas. Any improvements to the storm drainage system deemed necessary by the City will be incorporated into the conditions of approval for each individual project.	Project Civil Engineer and Construction Manager: Ensure that drainage plan has been prepared and implemented.	Prior to final issuance of a grading permit for each individual project.
G. Hazards			
HAZ-1: Implementation of the NMSD Project could expose construction workers and/or the public to hazardous materials from contaminants in soil during and following construction activities.	HAZ-1: Prior to the issuance of any grading, demolition, or building permits for the project site, a Risk Management Plan (RMP) shall be prepared for the project site. At a minimum, the RMP shall establish soil and groundwater mitigation and control specifications for grading and construction activities at the site, including health and safety provisions for monitoring exposure to construction workers, procedures to be undertaken in the event that previously unreported contamination is discovered, and emergency procedures and responsible personnel. The RMP shall also include procedures for managing soils and groundwater removed from the site to ensure that any excavated soils and/or dewatered groundwater with contaminants are stored, managed, and disposed of in accordance with applicable regulations and	Project Civil Engineer and Construction Manager: Development of a RMP.	Prior to issuance of a grading, demolition or building permit.

Table 1 *continued*

Environmental Impacts	Mitigation Measures	Monitoring Responsibility	Schedule for Implementing Mitigation Measure
HAZ-1 *continued*	permits. The RMP shall describe groundwater monitoring wells that will be affected by the construction activities, provide procedures for the proper abandonment of those wells, and provide locations for replacement monitoring wells, if warranted. The RMP shall also include an Operations and Maintenance Plan component, to ensure that health and safety measures required for future construction and maintenance at the project site shall be enforced in perpetuity. Any change in use would prompt a new CEQA process which will reveal all such contamination and ensure that human exposure to residual contamination is prevented. The RMP shall be submitted to the Milpitas Fire Department for review and approval.		
HAZ-2: Implementation of the NMSD Project could hinder ongoing investigation and remediation of petroleum hydrocarbon and solvent contamination at a project site parcel.	HAZ-2: If development of the project occurs prior to regulatory case closure of the 130 Winsor Avenue site, SCCDEH/SCVWD approval shall be a condition of requirement for any demolition, grading, or construction permits on that property. Any requirements of SCCDEH, such as abandonment and/or replacement of groundwater monitoring wells, shall be incorporated as conditions of approval for the permit.	Project Civil Engineer: Compliance with SCCDEH/SCVWD findings.	Prior to issuance of demolition or construction permits.
HAZ-3: Improper use or transport of hazardous materials during construction activities could result in releases affecting construction workers and the general public.	HAZ-3: The RMP for the project site shall include procedures for emergency incident response and the management and disposal of contaminated soils and groundwater (see Mitigation Measure HAZ-1, above). Use, storage, disposal, and transport of hazardous materials during construction activities shall be performed in accordance with existing local, State, and federal hazardous materials regulations. No additional mitigation is required.	Project Civil Engineer and Construction Manager: Development of a RMP.	Prior to issuance of a grading, demolition or building permit.

Table 1 *continued*

Environmental Impacts	Mitigation Measures	Monitoring Responsibility	Schedule for Implementing Mitigation Measure
HAZ-4: Development of the proposed project could expose construction workers and future residents to potentially hazardous concentrations of agricultural chemical residues in shallow soils.	HAZ-4: Prior to the issuance of grading or construction permits for the project site parcels west of North Main Street (APNs 22-08-041, 22-08-042, and 22-08-003), a qualified environmental professional shall conduct an environmental investigation at the project site in accordance with California Department of Toxic Substances Control (DTSC) Interim Guidance for sampling former agricultural fields (Interim Guidance). Based on the size of the site, the Interim Guidance specifies that a minimum of eight composite samples should be collected from shallow soils and analyzed for potential organic and inorganic agricultural chemical residues. As specified in the Interim Guidance, any detected organic compounds or metals above naturally-occurring concentrations must be evaluated in a risk assessment, and additional remedial action such as soils removal may be required, depending on the results of the environmental investigation and risk assessment. Findings shall also be incorporated into the RMP for the project site (Mitigation Measure HAZ-1, above).	Project Applicant: Have qualified environmental professional evaluated project site in accordance with DTSC Guidance.	Prior to issuance of grading or construction permits.
HAZ-5: Demolition or renovation of structures containing lead-based paint, asbestos-containing building materials, and/or mold contamination could release airborne toxics, which may affect construction workers and the public.	HAZ-5: Implementation of this two-part measure would reduce this impact to a less-than-significant level: (a) As a condition of approval for any demolition or renovation permit for a structure known or suspected to have been constructed prior to 1985, an asbestos and lead-based paint survey shall be performed. If asbestos-containing materials were determined to be present, the materials shall be abated by a certified asbestos abatement contractor in accordance with the regulations and notification requirements of the Bay Area Air Quality Management District. If lead-based paint were identified, then federal and State construction worker health and safety regulations shall be followed during renovation or demolition activities. If loose or peeling lead-based paint were identified, they shall be removed by a qualified lead abatement contractor and disposed of in accordance with existing hazardous waste regulations.	Project Applicant: Lead based paint survey for structures built before 1985 and removal of asbestos containing materials by certified asbestos abatement contractor; preparation of a mold remediation report by a qualified environmental professional.	Prior to issuance of demolition permit and during demolition.

Table 1 *continued*

Environmental Impacts	Mitigation Measures	Monitoring Responsibility	Schedule for Implementing Mitigation Measure
HAZ-5 *continued*	(b) As a condition of any demolition or renovation permit for the former Senior Center Property (160 North Main Street), a qualified environmental professional shall be retained to investigate, evaluate, and remediate the mold contamination at the site, in accordance with guidelines in US EPA's "Mold Remediation in Schools and Commercial Buildings" (EPA Document 402-K-01-001). A final mold remediation report shall be produced to document the remediation and describe any maintenance measures required to prevent recurrence of the mold contamination. These maintenance measures shall be incorporated into conditions of approval for the construction or renovation permit.		
H. Cultural and Paleontological Resources			
CULT-1: Implementation of the Senior Housing element of the NMSD Project would result in the relocation on-site of the DeVries Home and the demolition of the Home's contributing outbuildings and plantings.	CULT-1: Prior to any relocation on site of the DeVries Home, each of the following measures shall be completed: • Produce a full set of HABS-style large format documentary photographs. A minimum of 20 views on 4- x 5-inch or larger format film shall be taken. The photographs shall be processed archivally, and copies of the photographs shall be deposited with the City of Milpitas, the Bancroft Library at the University of California, Berkeley; and the NWIC. The City will provide copies to the local library and the Milpitas Historical Society. • Prepare a history of the DeVries Home that incorporates oral history, documentary research, and architectural information. The City will submit the documentation to the NWIC and provide copies to the local library and the Milpitas Historical Society.	Project Applicant: Documentation of DeVries Home.	Prior to any construction activities.

Table 1 *continued*

Environmental Impacts	Mitigation Measures	Monitoring Responsibility	Schedule for Implementing Mitigation Measure
CULT-1 *continued*	The architectural and historical documentation shall treat the DeVries Home, the conifer trees, and the outbuildings (garage and tankhouse) as a historical complex rather than an aggregation of individual resources. The documentation shall take into account the interrelatedness of the contributing features and the home. Even with mitigation, the impacts associated with relocation of the DeVries Home would remain significant and unavoidable.		
CULT-2: Construction of the library addition and the east parking garage adjacent to the Milpitas Grammar School could have an adverse impact on the school's historical integrity.	CULT-2: The design and construction of the library addition and the east parking garage shall follow the following basic design guidelines. • The average height of the parking garage and library addition shall not exceed the roofline height of the grammar school. • Any new structures shall not surround the grammar school on more than two sides. • Any new structures shall have a mass and scale that is compatible with the grammar school. • The design for the garage shall respect the school building's traditional design. • Paint colors selected for the garage shall coordinate with those used for the school. If the final design meets the criteria listed above, this impact would be reduced to a less-than-significant level. If the criteria cannot be achieved, the impact would be significant and unavoidable.	*The City has determined that this mitigation measure is not feasible and, as a result, will not be implemented. This impact has been identified as significant and unavoidable.*	

Table 1 *continued*

Environmental Impacts	Mitigation Measures	Monitoring Responsibility	Schedule for Implementing Mitigation Measure
CULT-3: Rehabilitation and reuse of the Milpitas Grammar School as part of implementation of the Library element of the NMSD Project could result in adverse impacts to the building's historic fabric.	CULT-3a: The Milpitas Grammar School will be rehabilitated in accordance with the Secretary's Standards. If conformity with the Secretary's Standards is not possible, then the following mitigation measure shall be implemented. CULT-3b: Prior to the rehabilitation of the Milpitas Grammar School, the building shall be documented to create a public record of the historical qualities that justify the school's National Register eligibility, and that will be available to researchers and the general public. Each of the following measures shall be completed:	Project Architect: Design rehabilitation in accordance with the Secretary Standards. Project Applicant: Documentation of Milpitas Grammar School.	Prior to any construction activities.
CULT-3 *continued*	• Produce a full set of HABS-style large format documentary photographs. A minimum of 20 views on 4- x 5-inch or larger format film shall be taken. The photographs shall be processed archivally, and copies of the photographs shall be deposited with the City of Milpitas, the Bancroft Library at the University of California, Berkeley; and the NWIC. The City will provide copies to the local library and the Milpitas Historical Society. • Prepare a history of the Milpitas Grammar School that incorporates oral history, documentary research, and architectural information. The City will submit the documentation to the NWIC and provide copies to the local library and the Milpitas Historical Society.		
CULT-4: Implementation of the Library and Eastern Parking Garage element of the NMSD Project would result in the demolition of the Winsor Blacksmith Shop.	CULT-4a: After property acquisition the City shall offer the Winsor Blacksmith Shop for purchase to be removed from the property at the buyer's expense and transferred to a new lot within Milpitas. Title to the building shall be transferred subject to a covenant that requires preservation of the building's historic features.	City: Offer the Winsor Blacksmith Shop for sale; documentation of the Winsor Blacksmith Shop.	Prior to any construction activities.

Table 1 *continued*

Environmental Impacts	Mitigation Measures	Monitoring Responsibility	Schedule for Implementing Mitigation Measure
	CULT-4b: Should the City receive no bids for the Winsor Blacksmith Shop, or if building relocation is not feasible, the following documentation tasks shall occur: • Produce a full set of Historic American Building Survey (HABS)-style large format documentary photographs of the Winsor Blacksmith Shop, including its contributing features. A minimum of 20 views on 4- x 5-inch or larger format film shall be taken. The photographs shall be processed archivally, and copies of the photographs shall be deposited with the City of Milpitas, the Bancroft Library at the University of California, Berkeley; and the Northwest Information Center, Rohnert Park (NWIC). The City will provide copies to the local library and the Milpitas Historical Society.		
CULT-4 *continued*	• Prepare a history of the Winsor Blacksmith Shop that incorporates oral history, documentary research, and architectural information. The City will submit the documentation to the NWIC and provide copies to the local library and the Milpitas Historical Society. . • Prepare a brochure describing the historical and architectural qualities of the Winsor Blacksmith Shop to be made available at local libraries and museums. • Salvage architectural elements and boards with brands from the Winsor Blacksmith Shop to incorporate into a display. The impact associated with demolition of the Winsor Blacksmith Shop would remain significant and unavoidable.		

Table 1 *continued*

Environmental Impacts	Mitigation Measures	Monitoring Responsibility	Schedule for Implementing Mitigation Measure
CULT-5: Implementation of each element of the NMSD Project construction could result in impacts to archaeological deposits that may qualify as historical or archaeological resources under CEQA.	CULT-5a: Prior to project construction, a qualified professional archaeologist shall prepare a monitoring plan to guide project ground disturbing construction to avoid impacts to potentially significant archaeological deposits. Preparing the monitoring plan may require subsurface examination to determine the presence, nature, extent, and potential significance of archaeological deposits that may be encountered by project activities. The monitoring plan should address the possibility that project construction may encounter prehistoric *and* historical archaeological deposits in the project area. At a minimum, the monitoring plan should include methods to: (1) refine the understanding of project area archaeological sensitivity; (2) determine the likelihood that such subsurface deposits have retained integrity; (3) identify the types of artifacts and features	*This impact has been identified as significant and unavoidable. The City should offer the Winsor Blacksmith Shop for sale to help minimize this impact.*	
CULT-5 *continued*	that may be encountered during project construction; and (4) provide guidelines for in-field assessment of archaeological deposits identified during monitoring. The plan should determine the appropriate level of archaeological construction monitoring necessary to avoid significant impacts to cultural resources, and provide guidance for the implementation of such monitoring.		
	CULT-5b: Archaeological construction monitoring shall be conducted as appropriate to fully implement the monitoring plan. Following the completion of archaeological monitoring, a report shall be prepared to document the methods, findings, and recommendations of the monitoring archaeologist. The report shall be submitted to the City, the project applicant, and the NWIC.		

Table 1 *continued*

Environmental Impacts	Mitigation Measures	Monitoring Responsibility	Schedule for Implementing Mitigation Measure
	CULT-5c: If deposits of prehistoric or historical materials are encountered during project activities after the completion of Mitigation Measure CULT-8b, all work within 50 feet should be halted until an archaeologist can evaluate the findings and make recommendations. Prehistoric materials can include flaked-stone tools (e.g., projectile points, knives, choppers) or obsidian, chert, or quartzite tool making debris; midden (i.e., culturally darkened soil often containing heat affected rock, ash and charcoal, shellfish remains, and cultural materials); and stone milling equipment (e.g., mortars, pestles, handstones). Historical materials might include wood, stone, concrete, or adobe footings, walls and other structural remains; debris-filled wells or privies; and deposits of wood, metal, glass, ceramics, and other refuse.		
CULT-5 *continued*	Project personnel shall not collect or move any archaeological or paleontological material. Fill soils that may be used for construction shall not contain archaeological or paleontological materials. Following the archaeologist's evaluation, a report should be prepared to document the methods, findings, and recommendations of the archaeologist conducting the work. The report shall be submitted to the City, the project applicant, and the NWIC.		

Table 1 *continued*

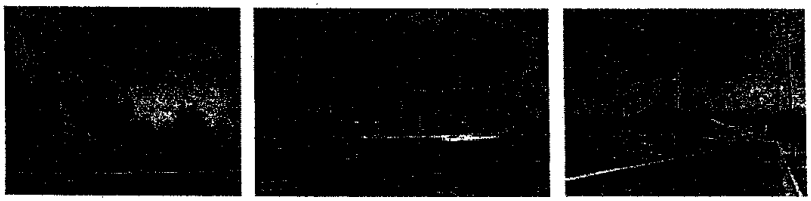
Environmental Impacts	Mitigation Measures	Monitoring Responsibility	Schedule for Implementing Mitigation Measure
CULT-6: Construction may disturb human remains, including those interred outside of formal cemeteries.	CULT-6: In the event that human remains are encountered, the developer shall: (1) halt work in the immediate area of the remains; (2) contact the Santa Clara County coroner and the City of Milpitas; and (3) contact an archaeologist to evaluate the situation and make recommendations. If the remains are of Native American origin, the coroner will contact the Native American Heritage Commission, which will in turn contact the appropriate Most Likely Descendent (MLD). The MLD will have the opportunity to make a recommendation for the respectful treatment of the Native American remains and related burial goods. The archaeologist shall recover all scientifically valuable information as appropriate, in accordance with the recommendations of the MLD. Following the archaeologist's evaluation, a report should be prepared to document the methods, findings, and recommendations of the archaeologist conducting the work. The report shall be submitted to the City, the project applicant, and the NWIC.	Construction Manager	During demolition, grading, and construction.
CULT-7: Subsurface construction activities associated with each element of the NMSD Project may adversely impact paleontological resources.	CULT-7a: If project subsurface construction is limited to a depth of *20 feet or less* below the ground surface, the following mitigation measure shall be implemented. If paleontological resources are encountered during project construction, all work within 50 feet of the discovery should be redirected until a qualified paleontologist is contacted to evaluate the finds and make recommendations. If the finds are found to be significant, they shall be avoided by project activities and recovered in accordance with the recommendations of the paleontologist. Upon completion of the recovery, the paleontologist shall address the need for paleontological monitoring of subsequent construction activities. After the recovery of the finds, a report documenting monitoring, methods, and findings shall be prepared by the paleontologist and submitted to the City, the project applicant, and a suitable fossil repository.	Construction Manager	During demolition, grading and construction.

Table 1 *continued*

Environmental Impacts	Mitigation Measures	Monitoring Responsibility	Schedule for Implementing Mitigation Measure
	CULT-7b: If substantial project subsurface excavation occurs at depths *greater than 20 feet* below the ground surface, then the following mitigation measure shall be implemented. A paleontological assessment by a qualified paleontologist should be conducted to determine if monitoring for paleontological resources is required. The assessment shall include: (1) the results of any geotechnical investigation done for the project area; (2) specific details of the construction plans for the project area; (3) background research; and (4) limited subsurface investigation within the project area. If the possibility of paleontological resources is confirmed, a monitoring plan should be prepared and implemented in conjunction with this evaluation. Upon completion of the paleontological assessment, a report documenting methods, findings, and recommendations shall be prepared and submitted to the City and the project applicant.		
CULT-7 *continued*	After the recovery of the finds and the completion of project construction, a report documenting monitoring, methods, and findings should be prepared by the paleontologist and submitted, along with a copy of the monitoring report, to the City, the project applicant, and a suitable fossil repository.		
I. Aesthetic Resources			
AES-1: Implementation of the NMSD Project would create a new source of light and glare.	AES-1: Outdoor lighting shall be designed to minimize glare and spillover onto surrounding properties. The proposed project shall incorporate non-mirrored glass or use other glare-reduction techniques to minimize daytime glare.	Architect	Prior to issuance of building permits.

RESPONSE TO COMMENTS DOCUMENT

CITY OF MILPITAS
NORTH MAIN STREET
DEVELOPMENT PROJECT
ENVIRONMENTAL IMPACT REPORT



STATE CLEARINGHOUSE No. 2004082131

LSA

December 2004

RESPONSE TO COMMENTS DOCUMENT

CITY OF MILPITAS
NORTH MAIN STREET
DEVELOPMENT PROJECT
ENVIRONMENTAL IMPACT REPORT

STATE CLEARINGHOUSE No. 2004082131

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December 2004

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LIST OF TABLES

I. INTRODUCTION

A. PURPOSE OF THE RESPONSE TO COMMENTS DOCUMENT

This document has been prepared to respond to comments received on the Draft Environmental Impact Report (Draft EIR) prepared for the City of Milpitas North Main Street Development Project (SCH# 2004082131) and, as necessary, to augment the information contained within the Draft EIR. The Draft EIR identifies the likely environmental consequences associated with the implementation of the proposed project, and recommends mitigation measures to reduce potentially significant impacts. This Response to Comment (RTC) Document provides responses to comments on the Draft EIR and makes revisions to the Draft EIR, as necessary, in response to these comments or to amplify and clarify material in the Draft EIR. This RTC Document, together with the Draft EIR, constitutes the Final EIR for the proposed project.

This document includes minor changes to the mitigation measures in the Draft EIR that were not included in the Response to Comments Document dated December 22, 2004.

B. ENVIRONMENTAL REVIEW PROCESS

According to CEQA, lead agencies are required to consult with public agencies having jurisdiction over a proposed project and to provide the general public with an opportunity to comment on the Draft EIR.

The City of Milpitas circulated a Notice of Preparation (NOP) that included a list of potential environmental effects that could result from the proposed project. The NOP was published and distributed to local, regional, and State agencies on July 8, 2004 and subsequently on August 30, 2004. Comments received by the City on the NOP were taken into account during the preparation of the EIR. Additionally, an agency scoping meeting regarding the scope of the EIR was held on July 16, 2004. No comments were received at this meeting.

The Draft EIR for the North Main Street Development (NMSD) Project was made available for public review on October 18, 2004 and distributed to applicable local and State agencies. Copies of the Notice of Availability of the Draft EIR (NOA) were mailed to all individuals previously requesting to be notified of the Draft EIR, in addition to those agencies and individuals who received a copy of the NOP. The NOA was published in the Milpitas Post on October 18, 2004, and posted around the project site.

A public comment session was held on October 28, 2004, Police Department Community Room 1275 North Milpitas Boulevard to receive comments related to the adequacy of the Draft EIR. No comments were received at this meeting.

The CEQA-mandated 45-day public comment period for the Draft EIR closed on December 1, 2004. Copies of all written comments received regarding the Draft EIR during the comment period are contained in Chapter III of this document.

C. DOCUMENT ORGANIZATION

This RTC Document and Final EIR consists of the following chapters:

- *Chapter I: Introduction.* This chapter discusses the purpose and organization of this RTC Document and the Final EIR and summarizes the environmental review process for the project.
- *Chapter II: List of Commenting Agencies, Organizations and Individuals.* This chapter contains a list of agencies, organizations, and persons who submitted written comments or spoke at the public comment session on the Draft EIR during the public review period.
- *Chapter III: Comments and Responses.* This chapter contains reproductions of all comment letters received on the Draft EIR as well as a summary of the comments made at the public comment session. A written response for each comment received during the public review period is provided. Each response is keyed to the preceding comment.
- *Chapter IV: Draft EIR Revisions.* Corrections to the Draft EIR necessary in light of the comments received and responses provided, or necessary to amplify or clarify material in the Draft EIR, are contained in this chapter. Text in underline represents language that has been added to the EIR; text with ~~strikeout~~ has been deleted from the EIR. Revisions to figures are also provided, where appropriate.

II. LIST OF COMMENTING AGENICIES, ORGANIZATIONS AND INDIVIDUALS

The chapter presents a list of letters received during the public review period and describes the organization of the letters and comments that are included in Chapter III, Comments and Responses, of this document.

A. ORGANIZATION OF COMMENT LETTERS AND RESPONSES

Chapter III includes a reproduction of each letter received on the Draft EIR. The written comments are grouped by the affiliation of the commentor, as follows: State agencies, local and regional agencies (A), and organizations (B).

The comment letters are numbered consecutively following the A, B, and C designations. The letters are annotated in the margin according to the following code:

State, Local and Regional Agencies:	A1-#
Organizations:	B1-#

The letters are numbered and comments within that letter are numbered consecutively after the hyphen.

B. LIST OF AGENCIES, ORGANIZATIONS, AND INDIVIDUALS COMMENTING ON THE DRAFT EIR

The following comment letters where submitted to the College during the public review period.

State, Local and Regional Agency

A1	County of Santa Clara	November 2, 2004
A2	City of San Jose	November 29, 2004
A3	Santa Clara Valley Transportation Authority	November 17, 2004
A4	Santa Clara Valley Water District	November 24, 2004
A5	Department of Toxic Substance Control	November 30, 2004

Organizations

B1	Pacific Gas and Electric Company	November 24, 2004

III. COMMENTS AND RESPONSES

Written responses to each comment letter received on the Draft EIR are provided in this chapter. Letters received during the public review period on the Draft EIR are provided in their entirety. Each letter is immediately followed by responses keyed to the specific comments. The letters are grouped by the affiliation of the commenting entity as follows: State agencies, local and regional agencies (A); and organizations (B).

A. STATE, LOCAL AND REGIONAL AGENCIES

Letter
A1

County of Santa Clara

Roads and Airports Department
Land Development and Permits
101 Skyport Drive
San Jose, California 95110-1302
(408) 573-2460 FAX (408) 441-0275

November 2, 2004

Mr. Dennis Carrington
Planning Division
City of Milpitas
455 E. Calaveras Blvd.
Milpitas, CA 95035

Subject: Draft Environmental Impact Report (EIR) – North Main Street Development Project

Montague Expressway

Dear Mr. Carrington:

Your October 14, 2004 letter along with the subject Draft EIR has been reviewed. Our comments are as follows:

1) The subject Draft EIR does not include a discussion of traffic impacts on Montague Expressway due to the proposed project. This should be done. If there is no traffic impact on Montague Expressway, it should be so stated in the Draft EIR **1**

2) On Page 11, in Table II, it is stated that historically the City has required development to pay its pro-rata share of improvement costs. It is recommended that the City require this development to pay its pro-rata share towards the County's Montague Expressway project. **2**

Please call me at 408-573-2465 if you have any questions.

We thank you for the opportunity to review this matter.

Sincerely,

Ashok Vyas

cc: Mike McNeely, City Engineer, City of Milpitas
DEC, MFG, MA, WRL, file

LETTER A1
County of Santa Clara
November 2, 2004

A1-1: Based on *"Transportation Impact Analysis Guidelines,"* Congestion Management Program, Santa Clara Valley Transportation Authority, an intersection shall be included in a TIA if it meets any one of the following requirements:

- The proposed development project is expected to add 10 or more peak hour vehicles per lane to any intersection movement.
- The intersection is adjacent to the project.
- Based on engineering judgment, Lead Agency staff determines that the intersection should be included in the analysis.

Based on the results of the analysis, the proposed NMSD project is not expected to add 10 or more peak hour vehicles per lane to any intersections along Montague Expressway.

A1-2: Please refer to Response to Comment A1-1.

Letter
A2

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Department of Planning, Building and Code Enforcement
STEPHEN M. HAASE, AICP, DIRECTOR

November 29, 2004

Mr. Dennis Carrington, Project Planner
City of Milpitas, Planning Department
455 East Calaveras Blvd.
Milpitas, CA 95035

SUBJECT: Draft Environmental Impact Report for North Main Street Development Project (OA 04-10-022)

Dear Mr. Carrington:

The City of San Jose (CSJ) appreciates the opportunity to review and comment on the Draft Environmental Impact Report (EIR) for the proposed North Main Street Development Project located in the Midtown area of the City of Milpitas, generally bounded by Weller Lane, Union Pacific Railroad, Carlo Street and North Main Street. The project includes various components including library, senior housing, health center, retail, etc.

The CSJ has reviewed the Draft EIR for the project, and has the following comments. Specific questions regarding these comments may be directed to Geoff Blair, City of San Jose Environmental Services Department at (408) 382-8842.

San Jose/Santa Clara Water Pollution Control Plant (Plant) - Plant Odors

The subject property is a little more than 1.5 miles east of the Plant. The Plant can be a potential source of odors. We recommend that due to the proximity of the project to the Plant, its impact and mitigation measures be discussed and analyzed in the Draft EIR. Questions about potential odors can be addressed to Plant staff at (408) 945-5300. 1

Plant Hazardous Materials

The subject property lies within the Plant's emergency planning zone based on a computer model, worst-case release scenario of hazardous materials used at the Plant. The DEIR does not address this potential issue. Discussion of model results and other issues related to safety and chemical releases at the Plant can be found in the Plant's Risk Management Plan (RMP). Questions about possible releases and the RMP can also be addressed to Plant staff at (408) 945-5300. 2

Letter
A2
cont.

The CSJ looks forward to reviewing the Final EIR when it becomes available for review. Please provide CSJ with a copy of the complete Final EIR, including all technical reports. Please send them to my attention.

Thank you again for the opportunity to review and comment on the Draft EIR for this project. If you need to contact me, you may reach me at (408) 277-4576.

Sincerely,

Janis Moore
Planner II

JAM:jam

C: Geoffrey Blair

OA04-10-022 DEIR Milpitas N Main St Pjct Ltr.doc/JAM

LETTER A2
City of San Jose
November 29, 2004

A2-1: In October 2003, City of Milpitas staff initiated discussions with stakeholders regarding odors affecting Milpitas residents. Participants included several potential odor sources located in San Jose, such as San Jose/Santa Clara Water Pollution Control Plant, BFI's Newby Island Landfill, Recyclery, and Compost Facility, Zanker Road Landfill and Materials Recovery sites, Calpine's Los Esteros Power Plant, and other nearby sources such as Cargill Salt Ponds, U.S. Fish and Wildlife Service Ponds. Two regulatory agencies, Bay Area Air Quality Management District (BAAQMD) and City of San Jose Local Enforcement Agency (LEA) also participated.

The purpose of these discussions were to improve communications and reduce odor episodes to the maximum extent practicable. The City of Milpitas recognizes that several of these nearby operations involve organic materials and complete odor elimination is not possible.

Stakeholders met several times and developed an Odor Action Plan to minimize impacts at the odor source. The Action Plan is on file with the City of Milpitas. The Action Plan identifies the odor complaint process, potential odor sources and their best management practices, roles of the regulatory agencies, and possible future actions if effective odor control is not achieved. The continued implementation of this plan should ensure that no significant odor impacts to future project residents occur. Additionally, Mitigation Measure NOISE-3 requires the installation of mechanical ventilation in all residential units. The ventilation systems will allow residents to keep windows closed in the event odor levels rise in the area.

Bay Area Air Quality Management District (BAAQMD) implemented a rapid notification system so stakeholders would be immediately notified of all complaints. Stakeholders review and modify their current operations as necessary to immediately reduce odor episodes. Some stakeholders have also employed permanent process modifications to more effectively control odors, such as installing weather stations to identify wind velocity and direction, non-mechanical back-ups, on-site relocation of processes, perform specific operations during favorable wind direction only, and use odor neutralizers.

A2-2: The commentor states that the San Jose/Santa Clara Water Pollution Control Plant (Plant) is located approximately 1.5 miles west of the proposed project, within the Plant's emergency planning zone. Due to the quantities of liquid chlorine and liquid sulfur dioxide stored at the Plant, the facility is regulated under the California Accidental Release Prevention (CalARP) program, which incorporates State and

Federal chemical risk management program requirements.[1] The CalARP program requires the evaluation of the potential effects of a worst-case hazardous materials release; in the case of the Plant, a worst-case release could potentially affect workers and residents 5.7 miles from the plant, depending on wind conditions.[2] In accordance with other requirements of the CalARP program, a Risk Management Plan (RMP) for the plant was prepared, which includes engineering controls and emergency response actions to protect area workers and residents from chemical releases from the Plant. The proposed project will not impair the implementation of or interfere with these emergency response procedures or other aspects of the RMP; therefore, no significant public health and safety impact would occur as a result of project implementation.

[1] These State and federal requirements include: Chapter 6.95, Article 2 of the California Health & Safety Code, Sections 25531 through 25543.3; Federal Accidental Release Prevention Program (aka Risk Management Program) information including applicable Federal Registers, updates and the Clean Air Act, Section 112(r); and Title 40 of the Code of Federal Regulations Part 68 (68.1 - 68.220).

[2] Provenzano, Jeff, 2004, Sanitary Engineer, San Jose/Santa Clara Water Pollution Control Plant, City of San Jose, communication with Todd Taylor of BASELINE, December 8.

Letter
A3

SANTA CLARA
Valley Transportation Authority

November 17, 2004

City of Milpitas
Planning Department
455 E. Calaveras Blvd.
Milpitas, CA 95035

Attention: Dennis Carrington

Subject: North Main Street Development Project

Dear Mr. Carrington:

Santa Clara Valley Transportation Authority (VTA) staff have reviewed the Draft EIR for construction of a new library, 110-unit senior housing project, 60,000-square foot Valley Health Center clinic, and various parking, circulation, streetscape improvements along main Street and generally bounded by the Union Pacific yard, Carlos Street, Abel Street, and Weller Lane. We have the following comments.

Land Use

Considering the site's proximity to a future BART station at South Calaveras Boulevard, VTA encourages the City to achieve higher densities at this site. The Draft Environmental Impact Report acknowledges that both the Milpitas General Plan and the Milpitas Midtown Specific Plan designate the project site as Mixed-Use with a Transit-Oriented Development (TOD) Overlay Zone. VTA encourages the City to satisfy the special density requirements designated by these two plans. 1

Development Design

VTA's *Community Design & Transportation (CDT) Guidelines* should be used when designing this development. This document provides guidance on site planning, building design, street design, preferred pedestrian environment, intersection design and parking requirements. The *CDT Guidelines* are available upon request to any agency staff. For more information on *CDT Guidelines*, please call Chris Augenstein of the CMP at 408-321-5725. 2

3331 North First Street · San Jose, CA 95134-1906 · Administration 408.321.5555 · Customer Service 408.321.2300

Letter
A3
cont.

Bicycle Parking

Based on the VTA Bicycle Technical Guideline: it is recommended that 41 Class II bike parking spaces (i.e. racks) be provided for the library, as well as 1 Class I bike parking space (i.e. locker or secured storage) per 30 library employees. Six Class I and Six Class II bike parking spaces should be provided for the senior housing complex. Also, 4 Class I and 5 Class II bike parking spaces should be provided for the Health Center. Class II bike parking spaces should be installed within 50 feet of the main public entrances. The Bicycle Technical Guidelines may be downloaded from www.vta.org/news/vtacmp/Bikes/ (Adobe Reader is required.). 3

Transportation Demand Management

The study identifies measures to reduce near-term impacts to the transportation system by the project to a less than significant level. However, the study does identify several roadway segments in the project area that would "operate at unacceptable levels" by 2025. The study goes on to say that feasible measures beyond those identified for the near-term impacts do not exist because the "roadways are already built out and cannot be widened within the existing right-of-way." These circumstances and the mixed-use nature of the proposed development support the implementation of a transportation demand management (TDM) program to help reduce the generation of single-occupant vehicle trips that are generated. Providing bicycle parking as previously noted is one measure that could lead to the reduction of single-occupant vehicle trips. Other effective TDM measures include: 4

- Parking Cash-Out
- Direct or Indirect Payments for Taking Alternate Modes
- Transit Fare Incentives such as Eco Pass and Commuter Checks
- Employee Carpool Matching
- Vanpool Program
- Preferentially Located Carpool Parking
- Showers and Clothes Lockers for Bicycle Commuters
- On-site or Walk-Accessible Employee Services (day-care, dry-cleaning, fitness, banking, convenience store)
- On-site or Walk-Accessible Restaurants
- Guaranteed Ride Home Program

VTA encourages the incorporation of some of the above elements into the proposed development. Just as roadway improvements address vehicular capacity constraints to the project, the above elements help to address vehicular demand burdens of the project.

Letter
A3
cont.

Bus Service

VTA operates bus service on North Main Street and Weller Lane and maintains several bus stops adjacent to the proposed project. We recommend that the City and VTA staff should discuss bus stop locations and amenities all along the Main /street corridor because there are a number of development plans along this corridor. 5

Thank you for the opportunity to review this project. If you have any questions, please call me at (408) 321-5784.

Sincerely,

Roy Molseed
Senior Environmental Planner

RM:kh

cc: Mike Tasosa, VTA
Samantha Swan, VTA

LETTER A3
Santa Clara Valley Transportation Authority
November 17, 2004

A3-1: A senior housing residential component is a part of the NMSD Project. Currently, it is anticipated that up to 110 senior housing units would be located on a lot that is approximately 1.15 acres. This level of density is consistent with the increased residential density outlined in the Milpitas Midtown Specific Plan.

A3-2: This comment does not address the adequacy of the EIR. The City will utilize the CDT Guidelines as is appropriate during the design development phase of each specific project proposed under the NMSD Project.

A3-3: At the time the Draft EIR was published, no specific details as to streetscape or parking improvements, including bicycle parking, had be determined. Bicycle parking spaces will be included in the final site plan, and VTA Bicycle Technical Guidelines will be incorporated, as appropriate.

A3-4: The City acknowledges that the implementation of TDM measures minimize increases in traffic. However, as it is difficult to quantify the affect of such measures, they have not been required as a CEQA mitigation measure. As the individual projects proposed as part of the NMSD project develop, the City will consider project specific TDM measures as appropriate.

A3-5: City staff will consult with VTA about stop locations and amenities along North Main Street.

Letter
A4

Santa Clara Valley Water District

5750 ALMADEN EXPWY
SAN JOSE, CA 95118-3686
TELEPHONE (408) 265-2600
FACIMILE (408) 266-0271
www.valleywater.org
AN EQUAL OPPORTUNITY EMPLOYER

File: 30369
Berryessa Creek

November 24, 2004

Mr. Dennis Carrington
Planning Department
City of Milpitas
455 East Calaveras Boulevard
Milpitas, CA 95035

Subject: Draft Environmental Impact Report—North Main Street Development
SCH. No. 2004082131

Dear Mr. Carrington:

The Santa Clara Valley Water District (District) has reviewed the draft Environmental Impact Report (EIR) related to the North Main Street Development with the following project components:

- City of Milpitas Community Library Project
- Mid-Peninsula Housing Coalition Senior Housing Project
- Santa Clara County Health Center Project
- Retail, Banquet, and Meeting Space
- Parking, Streetscape, and Circulation Improvements

We can offer the following comments:

Chapter IV, Section F.1.b, Page 129

Reference is made to the western portion of the project site and the expected rainfall absorbed by site soil and percolation to groundwater. Changes in land use that create increased impervious surfaces are an ongoing concern to the District with respect to protecting downstream facilities from adverse water quality and quantity impacts. This item was identified in the EIR as having a "significant" impact and proposed mitigation measures were outlined; however, mitigation for an increased runoff should include site design measures to reduce impervious areas and the amount of runoff from developed areas of the site. **1**

The report made reference to the Midtown Milpitas Specific Plan that include the widening of the Ford Creek and adding higher capacity outfalls at Railroad Avenue and Calaveras Boulevard, and constructing additional storm drainage pipes at Abel Street. However, the document also notes that these improvements would not help regulate localized flooding since primary capacity issues have been identified upstream of the project site. Clarification should be made to thes improvements and their purpose since widening of the creek and constructing higher capacity outfalls could impact existing flows, waste transportation, sediment loading, and erosion. **2**

Letter
A4
cont.

Chapter IV, Section F.1.c, Page 130

Reference is made to overtopping of banks from creeks to the east. Please identify the creeks. **3**

Chapter IV, Section F.1.d, Page 130

The report should note that water resources in the County of Santa Clara are managed by the District. **4**

Chapter IV, Section F.1.d(2), Page 134

Reference to the groundwater table rising to between 5 and 9 feet below grade surface, if it is allowed to stabilize. A Phase 1 report issued by Lowney Associates, identified leaking underground storage tanks in the project vicinity. In addition, it has been established that shallow groundwater at the site has been affected by release of petroleum compounds. Although the shallow groundwater table and mitigation alternatives were identified in the draft EIR, it is imperative that dewatering, storage, treatment, and disposal or discharge of groundwater follow all anti-degradation measures as outlined by the District and other regulatory agencies. **5**

Reference is made to a permit issued by the District to discharge dewatered groundwater to the sanitary sewer system. The District does not issue permits for discharge of groundwater to the sanitary system. **6**

Chapter IV, Section F.2.c, Page 138

The report correctly identifies that much of the project site is located within the 100-year flood hazard zone, and that implementation of the proposed project may increase localized flooding problems. Site grades must be designed to allow for the passage and storage of flood water within the site. A flood plain analysis should be prepared to delineate the postdevelopment flood plain depth and lateral extent. **7**

If you have any questions or comments, you can contact me at (408) 265-2607, extension 3174, or at syung@valleywater.org.

Sincerely,

Samuel Yung

Samuel Yung
Associate Engineer
Community Projects Review Unit

cc: S. Tippets, S. Yung, T. Hipol, M. Klemencic, H. Barrientos, B. Ahmadi, File (2)
eh:lm
1124c-pl.doc

LETTER A4
Santa Clara Valley Water District
November 24, 2004

A4-1: A reduction in impervious surface is not necessary to mitigate any significant impacts. Mitigation Measure HYD-1(b) requires the implementation of post-construction BMPs which may include minimizing the total amount of impervious surface.

A4-2: The commentor requests clarification of the improvements proposed in the project area under the Midtown Milpitas Specific Plan. Those improvements were evaluated in a previous environmental review and are not part of the current project. City staff expects these improvements to ameliorate storm drainage capacity in the project vicinity once implemented, but nuisance flooding is expected to persist in the project vicinity due to upstream capacity issues. Mitigation Measure HYD-2 requires demonstration that proposed drainage plans would not exceed the capacity of project area drainage facilities.

A4-3: The commentor requests clarification as to creek overtopping mentioned in the Draft EIR. In response to this comment, the following text change is made to page 130:

> During a 100-year flood, ~~creeks~~ Ford Creek, located east of the site, would overtop banks and spill toward Lower Penitencia Creek before being blocked by floodwalls.

A4-4: Comment noted.

A4-5: The commentor states that if dewatering is to occur the contaminated groundwater must be properly stored, treated, and disposed or discharged in accordance with SCVWD and other regulatory requirements. Mitigation HAZ-1 of the Draft EIR requires that a Risk Management Plan (RMP) be prepared for project construction, which would include procedures for managing dewatered groundwater (if any) to ensure that it is stored, managed, and disposed of in accordance with applicable regulations and permits.

A4-6: The commentor points out that SCVWD does not issue groundwater discharge permits for the sanitary sewer system in the City of Milpitas. In response to the comment, the following text change is made to page 134:

> . . . discharge of the dewatered groundwater would require a permit from ~~SCVWD~~, the Joint Treatment Plant (for discharge to the sanitary sewer system), or RWQCB (for discharge to the storm sewer system).

A4-7: The commentor expresses concern that project development could potentially affect the floodplain depth and lateral extent. In response to this comment, a text change has been made to Mitigation Measure HYD-2 on page 138:

> As a condition of approval of the final grading and drainage plans for each element of the NMSD Project, it must be demonstrated that implementation of the proposed drainage plans would not exceed the capacity of project area drainage facilities and the project will conform to FEMA requirements for development in floodplains.

Letter
A5

Terry Tamminen
Agency Secretary
Cal/EPA

Department of Toxic Substances Control

700 Heinz Avenue, Suite 200
Berkeley, California 94710-2721

Arnold Schwarzenegger
Governor

November 30, 2004

Mr. Dennis Carrington
City of Milpitas
455 E Calaveras Boulevard
Milpitas, California 95035

Dear Mr. Carrington:

NORTH MAIN STREET DEVELOPMENT PROJECT, MILPITAS, SANTA CLARA COUNTY, DRAFT ENVIRONMENTAL IMPACT REPORT, SCH #2004082131

Thank you for the opportunity to comment on the Draft Environmental Impact Report (EIR) for the North Main Street Development Project. As you may be aware, the California Department of Toxic Substances Control (DTSC) oversees the cleanup of sites where hazardous substances have been released pursuant to the California Health and Safety Code, Division 20, Chapter 6.8. As a Responsible Agency, DTSC is submitting comments to ensure that the environmental documentation prepared for this project pursuant to the California Environmental Quality Act (CEQA) adequately addresses any remediation activities which may be required to address any hazardous substances release.

The Project includes the following five individual projects: City of Milpitas Community Library Project; Mid-Peninsula Housing Coalition Senior Housing Project; Santa Clara County Valley Health Center Project; Retail, Banquet and Meeting Space; and Parking, Streetscape and Circulation Improvements. Three separate site assessments were conducted in the Project area for the: 1) library complex site; 2) eastern parking structure site and retail development site; and 3) senior housing, health center and western parking sites. The site assessment reports were not included in the Draft EIR. Based on the information provided in the Draft EIR, DTSC provides the following comments:

1. Library. The Draft EIR indicates that Phase I and II site assessments were conducted for the proposed library complex site. The Phase I site assessment identified residual contamination from former underground storage tanks (USTs) and contamination migrating from the adjoining Milpitas Transmission site as potential areas of concern. The Phase II site assessment found petroleum hydrocarbons, petroleum-related volatile organic compounds and lead in soil a groundwater in the library complex site. The Draft EIR states that the Phase II

1

site assessment report concluded that there was no indication of significant contamination that might require special handling during construction. However, the report recommended that a soil management plan and site safety plan be prepared for construction activities. Please identify how the determination was made that the contamination is not significant and clarify the need for preparing these plans if no significant contamination exists at this site. Since volatile organic compounds were found, the potential risk to future users of the library complex from intrusion of vapors from soil and groundwater should be evaluated. **1 cont.**

2. Eastern Parking and Retail Site. Site investigation at the former blacksmith and auto body shops and near the parts cleaning sink at the transmission repair shop found petroleum hydrocarbons, polynuclear aromatic hydrocarbons, solvents and metals in soil and groundwater. The site investigation report concluded that no contamination is known to be present in excess of established screening levels for commercial properties with the exception of releases from the transmission repair shop site. Please identify the detected contaminant concentrations and the screening levels used in this assessment. The potential risk to future users of the retail spaces from intrusion of solvent vapors from soil and groundwater should also be evaluated and the results discussed in the EIR. **2**

A mitigation measure identified for sites with hazardous substance contamination includes preparation of a Risk Management Plan to ensure that health and safety measures required for future construction at the project area shall be enforced in perpetuity. The inclusion of this mitigation measure indicates that contaminants will remain onsite after the development. Contaminants may remain onsite for properties that will be used for commercial or industrial purposes provided that adequate measures are implemented to ensure human exposure to contaminants is prevented. These measures would include preparation and recording of a land use covenant with the County Recorder's Office. The land use covenant should include provisions to ensure that the property is not developed for residential or other sensitive land uses, to require that any disturbance of contaminated soil be done in accordance with the Risk Management Plan, and to restrict groundwater use. **3**

Since releases of hazardous substances have occurred in the Project area and remediation may be necessary, impacts associated with remediation should be addressed in the CEQA document. If the remediation activities include the need for contaminated soil excavation, the CEQA document should include: (1) an assessment of air impacts and health impacts associated with the excavation activities; (2) identification of any applicable local standards which may be exceeded by the excavation activities, including dust and noise levels; (3) **4**

Letter
A5
cont.

transportation impacts from the removal or remedial activities; and (4) risk of upset should be there an accident during the cleanup. 4 cont.

3. Senior Housing, Health Center and Western Parking Site. The Phase I site assessment recommended testing for agricultural chemical residues in shallow soils because these sites were used for orchards from at least 1939 through around 1965. The mitigation measure includes an environmental investigation in accordance with DTSC's Interim Guidance for Sampling Former Agricultural Fields for School Sites (DTSC, August 26, 2002). Please note that Section 2.0 of this guidance discusses where the guidance does and does not apply. The guidance is specific to agricultural land where pesticides and/or fertilizers were presumably applied uniformly for agricultural purposes consistent with normal application practices. The guidance is not applicable to agricultural land adjacent to structures, areas treated differently from an agricultural field such as fence lines, canals, berms, and pesticide mixing and loading areas, and areas that have been graded for construction. The areas where the guidance does not apply require biased, discrete sampling as opposed to the sampling for agricultural fields discussed in the guidance. 5

DTSC can assist your agency in overseeing investigation/characterization and remediation activities through our Voluntary Cleanup Program. A fact sheet describing this program is enclosed. We are aware that projects such as this one are typically on a compressed schedule, and in an effort to use the available review time efficiently, we request that DTSC be included in any meetings where issues relevant to our statutory authority are discussed.

Please contact Remedios Sunga at (510) 540-3840 if you have any questions or would like to schedule a meeting. Thank you in advance for your cooperation in this matter.

Sincerely,

Mark E. Piros

Mark E. Piros, P.E.
Unit Chief
Northern California
Coastal Cleanup Operations Branch

Enclosure

cc: See next page

Letter
A5
cont.

cc: without enclosures

Governor's Office of Planning and Research
State Clearinghouse
P.O. Box 3044
Sacramento, California 95814-3044

Guenther Moskat
CEQA Tracking Center
Department of Toxic Substances Control
P.O. Box 806
Sacramento, California 95812-0806

LETTER A5
Department of Toxic Substances Control
November 30, 2004

A5-1: The commentor requests clarification regarding findings of the Phase I and Phase II investigations of the proposed Library site and the mitigation measure in the DEIR requiring a Soil Management Plan. The Phase II report cited in the DEIR[3] compared analytical results at the Library complex site to naturally-occurring (background) concentrations of metals in soils and Environmental Screening Levels (ESLs) established by the San Francisco Bay Regional Water Quality Control Board (RWQCB).[4] ESLs are conservative human health and ecological risk-based concentrations developed for use in screening analytical data. Exceedance of ESLs does not necessarily mean that the site may pose a health or ecological risk, but may indicate that additional investigation and/or remediation of a site is warranted. None of the soil or groundwater analytical results exceeded ESLs for commercial/industrial land uses for any exposure pathway, including intrusion of vapors into indoor air, and therefore the Phase II report concluded that additional investigation was not warranted. However, the Phase II concluded that there was a potential for additional contamination to be encountered during project development, based on historical industrial and commercial land uses at the project site, and recommended that a Soil Management Plan be prepared for the project. Mitigation HAZ-1 incorporates this recommendation for a Soil Management Plan, including a construction health and safety plan, to address contamination that may potentially be encountered during project development.

A5-2: The commentor requests additional information regarding screening levels and contaminant concentrations at the Eastern Parking and Retail site. The Phase II report cited in the DEIR[5] compared analytical results at the Library complex site to naturally-occurring (background) concentrations of metals in soils and ESLs. Please refer to Response to Comment 1, above, for a description and discussion of ESLs. As described in the DEIR, soil and groundwater samples contained concentrations of petroleum compounds, polynuclear aromatic hydrocarbons (PAHs), acetone, and metals above laboratory reporting limits; none of these concentrations exceed commercial/industrial ESLs. Solvent contamination from the Milpitas Transmission shop, which remains under regulatory oversight for investigation and remediation, appears to be limited to the transmission shop site near the eastern boundary of the project site, based on environmental investigation reports.[6] As no retail space is

[3] Treadwell & Rollo, 2004, Phase I and Limited Phase II Environmental Site Assessment, 160 North Main Street, Milpitas, California, August 18.

[4] San Francisco Regional Water Quality Control Board (RWQCB), 2003, Screening For Environmental Concerns At Sites With Contaminated Soil and Groundwater, July, Interim Final.

[5] Lowney Associates, 2004, Soil and Groundwater Quality Evaluation, Milpitas Library Expansion Parcels, Milpitas, California, Draft, August 31.

[6] Hoexter Consulting, 2004, Initial Plume Definition for Milpitas Transmission, 130 Winsor Street, Milpitas, California, February 13.

proposed for the area of affected soil or groundwater, no risk from indoor air to future retail users would be expected.

A5-3: The commentor states that adequate measures, including preparation and recording of a land use covenant, should be implemented at the Eastern Parking and Retail site to ensure that human exposure to residual contamination is prevented.

In response to this comment, the following text change has been made to Mitigation Measure HAZ-1 on page 147:

> ...The RMP shall also include an Operations and Maintenance Plan component, to ensure that health and safety measures required for future construction and maintenance at the project site shall be enforced in perpetuity. Any change in use would prompt a new CEQA process which will reveal all such contamination and ensure that human exposure to residual contamination is prevented.

A5-4: The commentor states that impacts associated with soil excavation or other remedial activities that may be required during development of the project should be evaluated in the EIR, including impacts associated with excavation activities, transportation of contaminated material, and risk of upset in case of an accident during cleanup activities. These impacts were evaluated under Impacts HAZ-1 and HAZ-3, and elements of the RMP (Mitigation Measure HAZ-1) were intended to address potential health and safety impacts of known contamination and previously undiscovered contamination, that could be encountered based on historic land uses at the project site. Requirements of the RMP include emergency response procedures in case of spill or other emergency situation. The specifications of the RMP were designed to ensure that any excavated soils and/or dewatered groundwater with contaminants from the project site are stored, managed, and disposed of in accordance with applicable regulations and permits. This mitigation measure would reduce this impact to a less-than-significant level.

A5-5: The commentor points out that the DTSC Interim Guidance for Sampling Former Agricultural Fields for School Sites (Interim Guidance), cited in Mitigation Measure HAZ-4, applies only to former agricultural fields, and not to fence lines, canals, berms, pesticide mixing and loading areas, and areas that have been graded for construction. During the period that tpart of the project site was used for orchards, no fence lines, canals, berms, or graded areas were noted in the Phase I review of historical land use records.[7] Structures near the orchards included two residences, a well house, and a garage. Therefore, no areas that would require discrete sampling under the Interim Guidance were apparent.

[7] Baseline Environmental Consulting, 2004, Phase I Site Assessment, Senior Center, County Health Facility, and Parking Structure Sites, North Main Street, Milpitas, California, October.

B. ORGANIZATIONS

Letter
B1

Pacific Gas and Electric Company
111 Almaden Boulevard
P.O. Box 15005
San Jose, CA 95115-0005

November 24, 2004

City of Milpitas
455 E. Calaveras Bl.
Milpitas, CA 95035
Attn: Dennis Carrington
Fax #: 408-586-3293

RE: Review of Draft Environmental Impact Report (EIR)
North Main Street Development Project
Loc: Weller Lane to the north, UPTR to the east, Carlo Street to the south in Milpitas
Report dated : October 2004
SCH: 2003092020
PG&E file: 40322924-y04-MR-193

Dear Sir / Madam,

Thank you for the opportunity to review the Draft Environmental Impact Report, for the above project. PG&E has the following comments to offer:

PG&E owns and operates gas and electric facilities which are located within and adjacent to the proposed project. To promote the safe and reliable maintenance and operation of utility facilities, the California Public Utilities Commission (CPUC) has mandated specific clearance requirements between utility facilities and surrounding objects or construction activities. To ensure compliance with these standards, project proponents should coordinate with PG&E early in the development of their project plans. Any proposed development plans should provide for unrestricted utility access and prevent easement encroachments that might impair the safe and reliable maintenance and operation of PG&E's facilities. 1

The developers will be responsible for the costs associated with the relocation of existing PG&E facilities to accommodate their proposed development. Because facilities relocation's require long lead times and are not always feasible, the developers should be encouraged to consult with PG&E as early in their planning stages as possible.

Letter
B1
cont.

Pacific Gas and Electric Company 111 Almaden Boulevard
P.O. Box 15005
San Jose, CA 95115-0005

Relocations of PG&E's electric transmission and substation facilities (50,000 volts and above) could also require formal approval from the California Public Utilities Commission. If required, this approval process could take up to two years to complete. Proponents with development plans which could affect such electric transmission facilities should be referred to PG&E for additional information and assistance in the development of their project schedules.

1 cont.

We would also like to note that continued development consistent with City's General Plans will have a cumulative impact on PG&E's gas and electric systems and may require on-site and off-site additions and improvements to the facilities which supply these services. Because utility facilities are operated as an integrated system, the presence of an existing gas or electric transmission or distribution facility does not necessarily mean the facility has capacity to connect new loads.

Expansion of distribution and transmission lines and related facilities is a necessary consequence of growth and development. In addition to adding new distribution feeders, the range of electric system improvements needed to accommodate growth may include upgrading existing substation and transmission line equipment, expanding existing substations to their ultimate buildout capacity, and building new substations and interconnecting transmission lines. Comparable upgrades or additions needed to accommodate additional load on the gas system could include facilities such as regulator stations, odorizer stations, valve lots, distribution and transmission lines.

2

We would like to recommend that environmental documents for proposed development projects include adequate evaluation of cumulative impacts to utility systems, the utility facilities needed to serve those developments and any potential environmental issues associated with extending utility service to the proposed project. This will assure the project's compliance with CEQA and reduce potential delays to the project schedule.

We also encourage the Planning Office of the City to include information about the issue of electric and magnetic fields (EMF) in environmental documents. It is PG&E's policy to share information and educate people about the issue of EMF.

3

> Electric and Magnetic Fields (EMF) exist wherever there is electricity--in appliances, homes, schools and offices, and in power lines. There is no scientific consensus on the actual health effects of EMF exposure, but it is an issue of public concern. If you have questions about EMF, please call your local PG&E office. A package of information which includes materials from the California Department of Health Services and other groups will be sent to you upon your request.

Letter
B1
cont.

Pacific Gas and Electric Company
111 Almaden Boulevard
P.O. Box 15005
San Jose, CA 95115-0005

PG&E remains committed to working with City to provide timely, reliable and cost effective gas and electric service to the planned area. We would also appreciate being copied on future correspondence regarding this subject as this project develops.

The California Constitution vests in the California Public Utilities Commission (CPUC) exclusive power and sole authority with respect to the regulation of privately owned or investor owned public utilities such as PG&E. This exclusive power extends to all aspects of the location, design, construction, maintenance and operation of public utility facilities. Nevertheless, the CPUC has provisions for regulated utilities to work closely with local governments and give due consideration to their concerns. PG&E must balance our commitment to provide due consideration to local concerns with our obligation to provide the public with a safe, reliable, cost-effective energy supply in compliance with the rules and tariffs of the CPUC.

Should you require any additional information or have any questions, please call me at (408) 282-7401.

Sincerely,

Alfred Poon
Land Agent
South Coast Area, San Jose

COMMENTOR B1

Pacific Gas and Electric Company
November 24, 2004

B1-1: This comment does not address the adequacy of the EIR. The City and the individual project developers will coordinate with PG&E and during the design development phase of each project to determine what specific facility upgrades may be necessary.

B1-2: The commentor notes that relocation of PG&E's electric transmission and substation facilities could require formal approval from the CPUC. This comment is noted. No relocation of electric transmission or substation facilities are proposed at this time other than those affected by the Underground Utility District and related utility project.

B1-3: The City and individual project developers will consult with PG&E during the design development phase of each project to determine if any improvements to PG&E facilities will be necessary. The Midtown Milpitas Specific Plan EIR considers cumulative impacts to utilities that could occur under buildout of the Specific Plan. To the extent that facility upgrades would be required in the Midtown area, and would be limited to existing parcels where development is already anticipated, the environmental impacts of these future improvements were addressed in the Midtown Draft EIR. PG&E has not identified any specific improvements that would be required outside of the Midtown area. Because an exact upgrade has not been identified and the City of Milpitas is not responsible for such upgrades, analyzing the potential environmental effects of such an upgrade would be speculative at this juncture. PG&E will continue to be responsible for the implementation of facility upgrades and the analysis of the potential environmental effects associated with any upgrade.

IV. DRAFT EIR REVISIONS

This chapter presents specific revisions to the text of the Draft EIR that are being made in response to comments, or to amplify and clarify material in the Draft EIR. Where revisions to the main text are called for, the page and paragraph are set forth, followed by the appropriate revision. Added text is indicated with underlined text. Deletions to text in the Draft EIR are shown with ~~strikeout~~. Page numbers correspond to the page numbers of the Draft EIR. None of the changes or clarifications present in this chapter significantly alters the conclusions or findings of the Draft EIR.

Page 6 is revised as follows:

- **Transportation, Circulation and Parking.** The addition of traffic from the proposed project under Cumulative Conditions would significantly exacerbate AM peak hour operations on ~~four~~ five and PM peak hour on eight of the study roadway segments that are projected to operate at unacceptable levels under General Plan Build plus Midtown Milpitas Specific Plan Conditions, including the following:

Page 36, Table III -1, is revised as follows:

Table III-1: North Main Street Development Project Components

Project Component	Existing Use and APN	Total Square Footage	Floor Area Square Footage	Number of Stories	Approx. ~~Maximum~~ Height (Feet)	Hours of Operation
Library Complex	Historic Grammar School 28-24-019	60,000	Old Building: 16,000	1	30	16/7
			New Building: 44,000	2	40	12/7
Senior Housing Complex	DeVries House 22-08-041	New Building 106,700	Units: 105,000 Lobby: 1,700 Parking: 19,300	4	60	24/7
		DeVries 5,600	5,600	2	25	24/7
County Health Facility *20,000 sq. ft. footprint*	Vacant Parcel 22-08-042	60,000		3	60	12/6
Proposed Retail, Banquet and Meeting Space in Parking Structures		~~60,000~~ 50,000	Retail Space: approx. 25,000 Banquet and Meeting Space: approx. 25,000	N/A	N/A	16/7
Eastern Parking Structure adjacent to Library *60,000 sq. ft. footprint*	Winsor Property; Milpitas Trans./ Jerry's autobody; blacksmith shop , bungalow 28-24-014, -015, -016, -020, -026, 28-24-025	180,000	Parking: 167,500 (325 parking spaces)	3	35	16/7
Western Parking Structure adjacent to Calaveras Boulevard	Vacant parcel next to Calaveras 22-08-003	200,000	163,000 (475 parking spaces)	6	90	16/7

Source: City of Milpitas, 2004.

Page 40 is revised as follows:

a. Water Service. The City of Milpitas receives potable water from the San Francisco Water Department and from the Santa Clara Valley Water District and distributes water through a City water distribution system. The source of wholesale water for the project site is Santa Clara Valley Water District. Non-potable water comes from San Jose Santa Clara Joint Water Pollution Control Plant. Individual projects will be required to design and install water services necessary to serve the project. Existing connections to water lines would be expanded if necessary.

b. Wastewater. Wastewater generated on-site would be conveyed to the San Jose/Santa Clara Pollution Control Plant through a system of sanitary sewer lines, sewer pump stations, and sewer mains that are operated and maintained by the City of Milpitas. New connections would be provided to areas not currently served, and existing connection would be expanded if necessary. Individual projects will be required to purchase adequate public system sewage capacities and install pretreatment devices in accordance to water pollution control plan requirements.

c. Other Utilities. Other utilities that would be provided to the project site include telephone service, gas and electrical service, solid waste service, and cable service.

Page 41, Table III-2, is revised as follows:

Table III-2: Required Permits and Approvals

Lead Agency	Permit/Approval
City of Milpitas	• Development Plan and Architectural Review • Building permits for the library, senior housing, parking structures and retail space • Site and architectural review • Use permit for deviation from Development Standards • Density bonus for Senior Housing Project • Approval of wastewater hookups
Responsible Agencies	
County of Santa Clara	• Approval of health center • Building permits for the health center
Milpitas Redevelopment Agency	• Disposition and Development Agreements
Other Agencies	
Union Pacific Railroad	• Permit, as necessary, for work within an area of influence and maintenance and access
California Regional Water Quality Control Board (RWQCB)	• National Pollutant Discharge Elimination System (NPDES) permit for stormwater discharge
San Jose/Santa Clara Water Pollution Control Plant	• Approval of commercial sewage discharge pretreatment devices
Federal Emergency Management Agency	• Floodplain Map Revision
SBC	• Phone Service Connection
PG&E	• Gas and Electrical Connection
Comcast	• Cable Connection

Source: City of Milpitas, 2004.

Page 83, Table IV.C-10, is revised as follows:

Table IV.C-10: Mitigation Measures and LOS under Baseline Plus Project Conditions

Num.	Intersection	Required Mitigation	Peak Hour	Unmitigated		Mitigated		Impact Fully Mitigated?
				Delay	LOS	Delay	LOS	
1	~~Able~~ Abel St./Marylinn Dr.	Add a separate northbound right-turn lane and implement overlap phase for the westbound right-turn lane	PM	61.6	E	50.9	D	Yes
2	Main St./Calaveras Blvd. Off-Ramp	Investigate a traffic signal installation and addition of a separate southbound left-turn lane	PM	228.5	F	28.8	C	Yes
3	South Main St./Carlo Street/Calaveras Blvd. On-Ramp	Investigate a traffic signal installation	PM	75.1	F	25.1	C	Yes

Page 84 is revised as follows:

Development under the proposed NMSD Project would degrade the projected acceptable PM peak operating conditions at ~~Able~~ Abel Street/Marylinn Drive. This intersection would operate at LOS D under baseline conditions and would degrade to LOS E with the proposed project.

Page 95, Mitigation Measure TRANS-4, is revised as follows:

Mitigation Measure TRANS-4: . . . No mitigation measures beyond those identified in Mitigation Measures TRANS-1 through TRANS-3 are considered feasible for any of the cumulatively impacted roadway segments; however, historically the City has required development to pay its pro-rata share of improvement cost toward improvement on a project by project basis. All of those segments projected to operate at unacceptable levels under General Plan Buildout plus Midtown Milpitas Specific Plan Conditions would do so because no feasible mitigation measure can be implemented to increase roadway ~~vehicle~~ capacity. All of those roadways are already built out and cannot be widened within the existing right-of-way. The secondary impacts of widening these roadways, which include right-of-way acquisition and demolition of existing buildings, are expected to result in a greater negative impact on the environment than accommodating the additional congestion. This impact is considered significant and unavoidable. (SU)

Page 112, Mitigation Measure AIR-2, is revised as follows:

Mitigation Measure AIR-2: The *BAAQMD CEQA Guidelines* document identifies potential mitigation measures for various types of projects. The following are considered to be feasible and effective in further reducing vehicle trip generation and resulting emissions from the project:

- Provide neighborhood-serving shops and services within or adjacent to residential development.

- Provide transit facilities (e.g., bus bulbs/turnouts, benches, shelters).
- Provide shuttle service to regional transit system or multimodal center.
- Provide shuttle service to major destinations such as employment centers, shopping centers and schools.
- Provide bicycle lanes and/or paths, connected to community-wide network.
- Provide sidewalks and/or paths, connected to adjacent land uses, transit stops, and/or community-wide network.
- Provide satellite telecommunication centers in large residential developments.
- Provide secure and conveniently located bicycle and storage for residents.
- Wire each senior housing unit to allow use of emerging electronic communication technology.
- Implement feasible TDM measures including a ride-matching program, coordination with regional ridesharing organizations and provision of transit information.

Implementation of the above mitigation measures could ~~would~~ potentially reduce the regional vehicle emissions by up to 10 percent, but some of the measures may not be appropriate and/or feasible. Additionally, ~~However,~~ it is anticipated that the NO_X emissions would continue to exceed the BAAQMD's threshold. Therefore, the project's regional air quality impacts would remain significant. (SU)

Page 120, Table IV.E-6, is revised as shown on page 32 following:

Page 122, Mitigation Mesaure NOISE-1, is revised as follows:

Mitigation Measure NOISE-1: The following measures shall be implemented during construction of each of the proposed projects:

(a) Standard construction activities shall be limited to between 7:00 a.m. and 7:00 p.m. No construction activities that exceed City standards shall be allowed on federal holidays.

Page 126, Table IV.E-7, is revised as shown on page 33 following:

Table IV.E-6: Existing Traffic Noise Levels

Roadway Segment	ADT	Centerline to 70 L_{dn} (Feet)	Centerline to 65 L_{dn} (Feet)	Centerline to 60 L_{dn} (Feet)	L_{dn} (dBA) 50 Feet from Outermost Lane
Abel Street					
North of Milpitas Blvd.	16,230	< 50[a]	97	206	67.4
Between Milpitas Blvd. and Redwood Ave.	19,330	< 50	109	231	68.2
Between Redwood Ave. and Marylin Dr.	20,245	54	112	239	68.4
Between Marylin Dr. and Weller Ln.	16,610	< 50	99	209	67.5
Between Weller Ln. and Claveras Blvd.	16,990	< 50	100	213	67.6
Between Calaveras Blvd. and Serra Way	15,145	< 50	93	197	67.1
South of Serra Way	16,370	< 50	98	207	67.5
Main Street					
North of Weller Ln.	5,940	< 50	< 50	70	61.5
Between Weller Ln. and Claveras Blvd.	7,070	< 50	< 50	79	62.2
Between Calaveras Blvd. and Serra Way	12,230	< 50	53	113	64.6
South of Serra Way	10,750	< 50	< 50	104	64.1
Milpitas Boulevard					
North of Abel St.	27,920	66	138	295	69.8
Between Abel St. and Escuela Pkwy.	11,920	< 50	80	168	66.1
Between Escuela Pkwy. and Town Center Dr.	16,080	< 50	96	205	67.4
Between Town Center Dr. and Calaveras Blvd.	22,425	58	120	255	68.8
South of Calaveras	22,210	57	119	254	68.8
Weller Lane					
Between ~~Able~~ Abel Street and Main Street	2,275	< 50	< 50	< 50	57.3
East of Main Street	110	< 50	< 50	< 50	44.2
Calaveras Boulevard					
West of Abbot Ave.	55,050	121	257	552	73.5
Between Abbot Ave. and Abel St.	46,505	109	230	494	72.7
Between Abel St. and Milpitas Blvd.	47,545	111	234	501	72.8
Between Milpitas Blvd. and Town Center Dr.	42,740	103	218	467	72.4
Between Town Center Dr. and Hillview Dr.	43,140	104	219	470	72.4
East of Hillview Dr.	46,180	109	229	492	72.7

Table IV.E-7: Baseline Traffic Noise Levels

	Baseline (2005)					Baseline Plus Project					
	ADT	Centerline to 70 L_{dn} (Feet)	Centerline to 65 L_{dn} (Feet)	Centerline to 60 L_{dn} (Feet)	L_{dn} (dBA) 50 Feet from Outermost Lane	ADT	Centerline to 70 L_{dn} (Feet)	Centerline to 65 L_{dn} (Feet)	Centerline to 60 L_{dn} (Feet)	L_{dn} (dBA) 50 Feet from Outermost Lane	Change From No Project Level (dBA)
Abel Street											
North of Milpitas Blvd.	16,230	< 50[a]	97	206	67.4	17,580	< 50[a]	102	217	67.8	0.4
Between Milpitas Blvd. and Redwood Ave.	19,330	< 50	109	231	68.2	22,410	58	120	255	68.8	0.6
Between Redwood Ave. and Marylin Dr.	20,245	54	112	239	68.4	23,330	59	123	262	69.0	0.6
Between Marylin Dr. and Weller Ln.	18,380	< 50	105	224	68.0	20,735	55	114	242	68.5	0.5
Between Weller Ln. and Claveras Blvd.	19,285	< 50	108	231	68.2	20,050	54	111	237	68.4	0.2
Between Calaveras Blvd. and Serra Way	15,465	< 50	94	200	67.2	15,465	< 50	94	200	67.2	0.0
South of Serra Way	16,550	< 50	98	209	67.5	17,220	< 50	101	214	67.7	0.2
Main Street											
North of Weller Ln.	7,850	< 50	< 50	84	62.7	9,300	< 50	< 50	94	63.4	0.7
Between Weller Ln. and Claveras Blvd.	8,865	< 50	< 50	92	63.2	11,960	< 50	52	112	64.5	1.3
Between Calaveras Blvd. and Serra Way	12,330	< 50	53	114	64.7	14,320	< 50	59	126	65.3	0.6
South of Serra Way	10,970	< 50	< 50	105	64.2	11,720	< 50	51	110	64.4	0.2
Milpitas Boulevard											
North of Abel St.	27,920	66	138	295	69.8	29,040	68	142	303	70.0	0.2
Between Abel St. and Escuela Pkwy.	11,920	< 50	80	168	66.1	12,530	< 50	82	174	66.3	0.2
Between Escuela Pkwy. and Town Center Dr.	16,455	< 50	98	208	67.5	17,065	< 50	100	213	67.7	0.2
Between Town Center Dr. and Calaveras Blvd.	23,285	59	123	262	69.0	23,920	60	125	267	69.1	0.1
South of Calaveras	22,490	58	120	256	68.9	23,220	59	122	261	69.0	0.1
Weller Lane											
Between ~~Able~~ Abel Street and Main Street	3,120	< 50	< 50	< 50	58.7	6,240	< 50	< 50	73	61.7	3.0
East of Main Street	120	< 50	< 50	< 50	44.5	1,720	< 50	< 50	< 50	56.1	11.6
Calaveras Boulevard											
West of Abbot Ave.	56,590	124	262	563	73.6	57,720	125	266	570	73.7	0.1
Between Abbot Ave. and Abel St.	48,825	112	238	510	72.9	49,670	114	240	516	73.0	0.1
Between Abel St. and Milpitas Blvd.	50,165	114	242	519	73.1	51,640	116	247	529	73.2	0.1
Between Milpitas Blvd. and Town Center Dr.	43,895	105	222	475	72.5	45,260	107	226	485	72.6	0.1
Between Town Center Dr. and Hillview Dr.	43,510	104	220	472	72.4	44,870	107	225	482	72.6	0.2
East of Hillview Dr.	46,960	110	232	497	72.8	48,320	112	236	507	72.9	0.1

Page 130 is revised as follows:

During a 100-year flood, ~~creeks~~ Ford Creek, located east of the site, would overtop banks and spill toward Lower Penitencia Creek before being blocked by floodwalls.

Page 134 is revised as follows:

. . . discharge of the dewatered groundwater would require a permit from ~~SCVWD~~, the Joint Treatment Plant (for discharge to the sanitary sewer system), or RWQCB (for discharge to the storm sewer system).

Page 138, Mitigation Measure HYD-2, is revised as follows:

As a condition of approval of the final grading and drainage plans for each element of the NMSD Project, it must be demonstrated that implementation of the proposed drainage plans would not exceed the capacity of project area drainage facilities and the project will conform to FEMA requirements for development in floodplains.

Page 147, Mitigation Measure HAZ-1, is revised as follows:

...The RMP shall also include an Operations and Maintenance Plan component, to ensure that health and safety measures required for future construction and maintenance at the project site shall be enforced in perpetuity. Any change in use would prompt a new CEQA process which will reveal all such contamination and ensure that human exposure to residual contamination is prevented.

Page 154 is revised as follows:

The original Milpitas Grammar School, at 160 North Main Street, was built in 1855. The school was destroyed by fire in 1912, and rebuilt at the same location in 1915~~5~~6. Also destroyed in the fire were a carriage barn, behind the school, and a storage building, just south of the school.[9] Since 1956, the school has served as a youth center dance hall, the police department, the public library, Chamber of Commerce, Milpitas City Hall, and a community center. From 1969 until 1983, the building served solely as the community center. Following the closure of the community center, the building was maintained as a senior center until 2000. A major renovation was done approximately 10 years ago remodeled the building and removed and altered much of the building's historic fabric (primarily interior).

Page 156 is revised as follows:

- *Milpitas Grammar School.* The Milpitas Grammar School, located at 160 North Main Street (APN 28-24-019), was constructed in 1915~~5~~6. The building was designated a Cultural Resource in Milpitas because: 1) it is one of the only examples of neo-classical public architecture in

Milpitas; 2) it is the same site as Milpitas' first school house; and 3) it is the oldest surviving school in Milpitas.~~.~~

Page 166 is revised as follows:

Impact CULT-5: Implementation of each element of the NMSD Project construction could result in impacts to archaeological deposits that may qualify as historical or archaeological resources under CEQA. (S)

The project area is sensitive for prehistoric and historical archaeological deposits. Implementation of the following mitigation measure would reduce the potential impact to a less-than-significant level.

~~Mitigation Measure CULT-5: Any future ground disturbing activities on the project site shall be monitored by a qualified archaeologist to ensure that the accidental discovery of significant archaeological materials and/or human remains is handled according to *CEQA Guidelines* Section 15064.5 regarding discovery of archeological sites and burial sites, and *CEQA Guidelines* Section 15126.4(b) identifying mitigation measures for impacts on historic and cultural resources. Prior to construction monitoring, prefield research shall be conducted to understand the location, potential significance, and physical condition of deposits that may be encountered, and to facilitate the in-field assessment of such deposits. In the event that buried cultural remains are encountered, construction will be temporarily halted until a mitigation plan can be developed and implemented. If archaeological data recovery is undertaken, a report describing the methods and results of the investigation shall be prepared and submitted to the project applicant, City, and the NWIC.~~

~~Project personnel shall not collect or move any archaeological material. Fill soils that may be used for construction shall not contain archaeological materials. (LTS)~~

Mitigation Measure CULT-5a: Prior to project construction, a qualified professional archaeologist shall prepare a monitoring plan to guide project ground disturbing construction to avoid impacts to potentially significant archaeological deposits. Preparing the monitoring plan may require subsurface examination to determine the presence, nature, extent, and potential significance of archaeological deposits that may be encountered by project activities. The monitoring plan should address the possibility that project construction may encounter prehistoric *and* historical archaeological deposits in the project area. At a minimum, the monitoring plan should include methods to: (1) refine the understanding of project area archaeological sensitivity; (2) determine the likelihood that such subsurface deposits have retained integrity; (3) identify the types of artifacts and features that may be encountered during project construction; and (4) provide guidelines for in-field assessment of archaeological deposits identified during monitoring. The plan should determine the appropriate level of archaeological construction monitoring necessary to avoid significant impacts to cultural resources, and provide guidance for the implementation of such monitoring.

Mitigation Measure CULT-5b: Archaeological construction monitoring shall be conducted as appropriate to fully implement the monitoring plan. Following the completion of archaeological monitoring, a report shall be prepared to document the methods, findings, and recommen-

dations of the monitoring archaeologist. The report shall be submitted to the City, the project applicant, and the NWIC.

Mitigation Measure CULT-5c: If deposits of prehistoric or historical materials are encountered during project activities after the completion of Mitigation Measure CULT-5b, all work within 50 feet should be halted until an archaeologist can evaluate the findings and make recommendations. Prehistoric materials can include flaked-stone tools (e.g., projectile points, knives, choppers) or obsidian, chert, or quartzite tool making debris; midden (i.e., culturally darkened soil often containing heat affected rock, ash and charcoal, shellfish remains, and cultural materials); and stone milling equipment (e.g., mortars, pestles, handstones). Historical materials might include wood, stone, concrete, or adobe footings, walls and other structural remains; debris-filled wells or privies; and deposits of wood, metal, glass, ceramics, and other refuse.

Project personnel shall not collect or move any archaeological or paleontological material. Fill soils that may be used for construction shall not contain archaeological or paleontological materials.

Following the archaeologist's evaluation, a report should be prepared to document the methods, findings, and recommendations of the archaeologist conducting the work. The report shall be submitted to the City, the project applicant, and the NWIC. (LTS)

Page 167 is revised as follows:

Mitigation Measure CULT-7b: If substantial project subsurface ~~construction~~ excavation occurs at depths *greater than 20 feet* below the ground surface, then the following mitigation measure shall be implemented. A paleontological assessment by a qualified paleontologist should be conducted to determine if monitoring for paleontological resources is required. The assessment shall include: (1) the results of any geotechnical investigation done for the project area; (2) specific details of the construction plans for the project area; (3) background research; and (4) limited subsurface investigation within the project area. If the possibility of paleontological resources is confirmed, a monitoring plan should be prepared and implemented in conjunction with this evaluation. Upon completion of the paleontological assessment, a report documenting methods, findings, and recommendations shall be prepared and submitted to the City and the project applicant.

Page 176 is revised as follows:

Mitigation Measure AES-1: Outdoor lighting shall be designed to minimize glare and spillover onto surrounding properties. The proposed project shall incorporate non-mirrored glass or use other glare-reduction techniques to minimize daytime glare. (LTS)

Page 186 is revised as follows:

- **Transportation, Circulation and Parking.** The addition of traffic from the proposed project under Cumulative Conditions would significantly exacerbate AM peak hour operations on ~~four~~ five and PM peak hour on eight of the study roadway segments that are projected to operate at unacceptable levels under General Plan Build plus Midtown Milpitas Specific Plan Conditions, including the following:.

  1. Calaveras Boulevard Westbound – Abel Avenue to Milpitas Boulevard (AM Peak Hour)
  2. Calaveras Boulevard Westbound – Milpitas Boulevard to Hillview Drive (AM Peak Hour)
  ~~2~~3. Calaveras Boulevard Westbound – Hillview Drive to I-680(AM Peak Hour)
  ~~3~~4. Abel Street Southbound – North Milpitas Boulevard to Calaveras Boulevard (AM Peak Hour)
  ~~4~~5. Main Street Northbound – Curtis Avenue to Carlo Street (AM Peak Hour)
  ~~5~~6. Calaveras Boulevard Eastbound – I-880 to Abbott Avenue (PM Peak Hour)
  ~~6~~7. Calaveras Boulevard Eastbound – Abbott Avenue to Abel Avenue (PM Peak Hour)
  ~~7~~8. Calaveras Boulevard Eastbound – Abel Avenue to Milpitas Avenue (PM Peak Hour)
  ~~8~~9. Calaveras Boulevard Eastbound – Milpitas Ave to Hillview Drive (PM Peak Hour)
  ~~9~~10. Calaveras Boulevard Eastbound – Hillview Drive to I -680 (PM Peak Hour)
  ~~10~~11. Abel Street Northbound – North Milpitas Boulevard to Calaveras Boulevard (PM Peak Hour)
  ~~11~~12. Main Street Northbound – Montague Expressway to Abel Street (PM Peak Hour)
  ~~12~~13. Main Street Northbound – Curtis Avenue to Carlo Street (PM Peak Hour)